

2002
04/27

SPECIAL REORGANIZATION OF THE SAN FERNANDO VALLEY

EXECUTIVE OFFICER'S REPORT

TO THE

LOCAL AGENCY FORMATION COMMISSION
FOR LOS ANGELES COUNTY

INSTITUTE OF GOVERNMENTAL
STUDIES LIBRARY

MAY 31 2002

UNIVERSITY OF CALIFORNIA

April 24, 2002

Larry J. Calemine
Executive Officer
Local Agency Formation Commission
For Los Angeles County
700 North Central Avenue, Suite 350
Glendale, California 91203
(818) 254-2454

April 24, 2002

Local Agency Formation Commission
for Los Angeles County
700 North Central Avenue, Suite 350
Glendale, California 91203

**Re: Executive Officer's Report for the Special Reorganization of the San
Fernando Valley**

Dear Commissioners:

I am very pleased to present for your review and consideration the Executive Officer's Report for the Special Reorganization of the San Fernando Valley area of the City of Los Angeles. This Report is the culmination of many months of hard work by the Subcommittee on Findings, Terms and Conditions (the "Subcommittee"), Commission staff, its consultants and legal counsel.

The proposal for special reorganization of the San Fernando Valley is unprecedented in its scope. Special reorganizations are rare—only two have occurred in the State's history, the last over 80 years ago—and the subject matter of this special reorganization is the second largest city in the Nation. If approved, the San Fernando Valley Special Reorganization would create the Nation's third and sixth largest cities. No local agency formation commission in the State of California has ever considered a proposal of this magnitude.

The objective of the Executive Officer's Report is to provide you with recommendations regarding the findings the Commission must consider to determine whether or not to approve the proposal, as well as proposed terms and conditions setting forth how the cities would function during the transition period and afterward, including the allocation of revenues and service responsibilities, and transfer of assets and liabilities.

In general, the Executive Officer's Report recommends that the Commission find that the proposed San Fernando Valley Special Reorganization would not be revenue neutral, that there would be a negative fiscal effect on the City of Los Angeles that should be mitigated, and that the proposed new city would be fiscally viable. It recommends terms and conditions that set an effective date of July 1, 2003 and a one-year transition period, provide for the retention of a fiscal agent to handle revenue allocation between the cities, an annual mitigation payment to the City of Los Angeles for a period of 20 years, the transfer of locally-serving assets to the new city, the allocation of outstanding debt and

Local Agency Formation Commission contingent liabilities, and the City's retention of its public utilities with utility rate protections for customers in the proposed new city.

The Report takes into consideration the analysis contained in the Comprehensive Fiscal Analysis ("CFA") prepared by Public Financial Management, Inc., as well as their supplemental report and the State Controller's review of the CFA. Further analyses were contributed by Beverly Burr of Burr Consulting with input from County Counsel and the recommendations of the Subcommittee. As the proposal has evolved since this process began, the Commission staff and its consultants have attempted to keep pace with an ever-changing landscape. As you will see in this Report, that evolutionary process continues, and we will continue to update even this Report, as additional information becomes available that may be useful to the Commission in making its determinations.

In large part, this Report is also based upon the considerable efforts of the Applicant, the Valley Study Foundation, Inc., and the City of Los Angeles. Both parties have provided data and information, critical fiscal and legal analysis, and proposed terms and conditions, and have met on numerous occasions for long hours to discuss and negotiate on the complicated issues presented by the proposal for San Fernando Valley Special Reorganization.

I believe that this Report provides the required information and recommendations necessary for you to properly consider the proposal. If you have any questions regarding the material presented in this Report, please do not hesitate to call.

Larry J. Calemine
Executive Officer

Cc: San Fernando Valley SRO Applicants
Mayor Hahn, City of Los Angeles
County Counsel

TABLE OF CONTENTS

Introduction.....	1
Background.....	3
Procedural Requirements	3
Special Reorganization History	6
San Fernando Valley	7
Fiscal Findings.....	10
Comprehensive Fiscal Analysis	10
Fiscal Viability	17
Revenue Neutrality Finding.....	18
Mitigation Payment.....	20
Transition Period	27
Effective Date	27
Transition Period Length	30
Transition Period Service Discontinuation Notice	31
Service Levels.....	32
Transition Service Scope	33
Payment Calculation	34
Transition Service Reimbursement.....	35
Grant Funds	40
Transition Costs	43
Cost of Elections and Redistricting	43
Accounting Costs	43
Other Transition Costs.....	43
Fiscal Mitigation.....	45
Background	45
Mitigation Payment	45
Mitigation Term.....	45
Mitigation Payment Mechanism.....	48
Mitigation Payment Reconciliation.....	48
Employees.....	49
Employee Transfer.....	49
Collective Bargaining Agreements	49
Civil Service System	50
Retirement Benefits.....	51
Surplus Employees	52
Assets	54
Legal Opinions.....	54
Precedents	55
Trust Account Funds & Liquid Assets	56
Local Service-Related Assets	57
Leases	59
Streets and Highways	59
Storm Water Facilities.....	61
Miscellaneous Assets.....	61
Enterprises	63
Airports.....	63

Port of Los Angeles	64
Utilities	64
Liabilities	67
Tax and Revenue Anticipation Notes	67
General Obligation Bonds	68
Assessment Bonds and Special Tax Bonds	68
Judgment Obligation Bonds	69
General Fund Lease Obligations and Certificates of Participation.....	70
Sanitation Equipment Charge Revenue Bonds.....	71
Parking Revenue Bonds	72
Non-Debt Liabilities	72
Miscellaneous Provisions	75
Redevelopment Areas	75
Proposition K Assessment District	75
Other Assessment Districts	78
Business Improvement Districts	79
Audit Rights	79
Standard Provisions	81
Elected Representatives.....	81
Appointive Positions.....	81
Ordinance Adoption.....	82
Development Permits.....	82
Tax Authorization	83
Development Agreements	84
Provisional Appropriations Limit	84
Name of the New City.....	85
Geographic Boundaries	85
Sphere of Influence	86
Appendices.....	87
Exhibit A: Proposed San Fernando Valley City Legal Description.....	87
Exhibit B: San Fernando Valley Facility-Related Assets	88
Executive Officer Fiscal Allocations: Technical Notes	95
Executive Officer Fiscal Allocations: Tables	97
Terms Proposed by the City of Los Angeles and the Applicant.....	104
Terms and Conditions in Incorporations Subject to Revenue Neutrality	138

INTRODUCTION

Purpose

Pursuant to the Cortese-Knox Local Government Reorganization Act of 1985 (the “Cortese-Knox Act”)¹ the executive officer of a local agency formation commission is required to review each application for a change of organization or reorganization filed with the commission and prepare a report to the commission, including his recommendations on the application.² The objective of this Executive Officer’s Report is to provide the Local Agency Formation Commission for Los Angeles County (the “Commission”) with its Executive Officer’s recommendations regarding the application and proposal for special reorganization of the San Fernando Valley area of the City of Los Angeles (“Valley Special Reorganization”).³

Context

The Executive Officer’s Report is based on studies, negotiations and proposals that have been conducted in this process. This input includes, but is not limited to, the Comprehensive Fiscal Analysis (“CFA”) and supplemental report prepared by the Commission’s consultant, the State Controller’s review of the CFA, comments at public hearings, the “terms and conditions” round of negotiations between the City of Los Angeles and the Valley Special Reorganization applicant (the “Applicant”) held during the last quarter of 2001, the revenue neutrality negotiations between the Applicant and the City of Los Angeles held during the first part of this year, the written proposals of those parties, and the recommendations of the Commission’s Subcommittee on Findings, Terms and Conditions (the “Subcommittee”), which held multiple hearings and adopted recommendations on findings, terms and conditions for consideration by the Commission. All of the above submissions, reports and proposals, and all other written submissions which have been provided by the parties and interested third parties, and all recordings, transcripts and minutes of all meetings and hearings are incorporated in this Report by reference for consideration by the Commission.

Caveats

This Report includes analysis and recommendations on fiscal findings and terms and conditions for the Commission to consider as it makes its determinations with respect to the Valley Special Reorganization. The decision whether or not to approve or disapprove the proposal, with or without amendment, wholly, partially or conditionally, rests entirely with the Commission. This Report is not a substitute for those discretionary decisions yet to be made by the Commission.

¹ Former California Government Code section 56000, *et seq.* The Cortese-Knox Act was amended by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the “Hertzberg Act”), which became effective January 1, 2001. The proposal for special reorganization of the San Fernando Valley area of the City of Los Angeles was accepted for filing prior to the Hertzberg Act’s effective date, and therefore, pursuant to the provisions of the Hertzberg Act it is being processed under the prior law, and all references herein are to the former Government Code sections of the Cortese-Knox Act.

² Government Code section 56833.

³ Pursuant to Government Code section 56075.5, a “special reorganization” means a reorganization that includes the detachment of territory from a city or city and county and the incorporation of that entire detached territory as a city. The Valley Special Reorganization, therefore, consists of a detachment of the San Fernando Valley territory from the City of Los Angeles and incorporation of that area as an independent city.

This Report and the recommendations herein are subject to revision and reconsideration as additional and updated data and information becomes available or as may otherwise be directed by the Commission during the course of its deliberations.

BACKGROUND

PROCEDURAL REQUIREMENTS

The special reorganization process for the proposed Valley Special Reorganization is set forth in the Cortese-Knox Local Government Reorganization Act of 1985 (the “Cortese-Knox Act”).⁴ While certain provisions of the Cortese-Knox Act are specific to special reorganization, most of the provisions that relate to incorporations are also applicable because a special reorganization includes an incorporation.⁵

Significant Voter Interest

In order to initiate proceedings for a special reorganization, an applicant is required to obtain the signatures of 25 percent of the registered voters in the territory seeking special reorganization.⁶ The Applicant filed its petitions in December 1998. In March 1999, the Executive Officer certified the petitions to be sufficient after the Los Angeles County Registrar/Recorder verified the requisite number of valid signatures of registered voters residing in the San Fernando Valley.⁷

Fiscal Viability

The Commission cannot approve a proposal for special reorganization unless it finds that the proposed city is financially viable, i.e. expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following incorporation.⁸ The Executive Officer is charged with causing the preparation of a comprehensive fiscal analysis, which reviews and documents each of the following:

- (a) The costs to the proposed city of providing public services and facilities during the three fiscal years following incorporation;
- (b) The revenues of the proposed city during the three fiscal years following incorporation;
- (c) The effects on the costs and revenues of any affected local agency during the three fiscal years of incorporation; and
- (d) Any other information and analysis needed to make the findings required by Section 56375.1.⁹

The Executive Officer submitted the San Fernando Valley Comprehensive Fiscal Analysis (“CFA”) to the Commission on January 9, 2002.¹⁰ The CFA concluded that the proposed city’s revenues would exceed its expenditures, and that the proposed city would have a modest reserve in its early

⁴ Former California Government Code section 56000, *et seq.* As stated earlier, the Cortese-Knox Act, is applicable to the Valley Special Reorganization, and not the Hertzberg Act, which became effective January 1, 2001. All references herein are to the former Government Code sections of the Cortese-Knox Act.

⁵ Government Code section 56075.5.

⁶ Government Code sections 56750 and 56761.

⁷ Government Code section 56706.

⁸ Government Code section 56375.1.

⁹ Government Code section 56833.1.

¹⁰ Public Financial Management, Inc., *San Fernando Valley Proposal for Special Reorganization Comprehensive Fiscal Analysis*, January 9, 2002.

years.¹¹ The City of Los Angeles requested that the State Controller review the CFA. The Controller's report was released on April 1, 2002.¹²

Mitigation of Negative Fiscal Effects ("Revenue Neutrality")

Government Code section 56845 prohibits the Commission from approving a proposal that includes an incorporation unless it finds that the following are substantially equal:

- (a) revenues currently received by the agency transferring the affected territory which would accrue to the local agency receiving the affected territory; and
- (b) expenditures currently made by the local agency transferring the affected territory for those services which will be assumed by the local agency receiving the affected territory.

If these amounts are not substantially equal, the Commission may only approve a proposal if it finds that: (1) the county and all other subject agencies agree, or (2) the negative fiscal effect of the special reorganization is adequately mitigated by tax sharing agreements, or other terms and conditions imposed by the Commission.¹²

The CFA contains an analysis of the "revenue neutrality" test set forth above, and concludes that the Valley Special Reorganization would not meet the revenue neutrality test because the Valley currently generates substantially more in revenue than the City of Los Angeles currently expends in providing the services that would transfer to the proposed Valley city. As such the Commission can only approve the proposed Valley Special Reorganization with the agreement of the County and the City of Los Angeles, or if it finds that the negative fiscal effect of the proposal has been adequately mitigated.

Seven California incorporations have occurred since this "revenue neutrality" test was added by the Legislature in 1992. In the first two cases of Truckee and Citrus Heights, the relevant local agency formation commission ("LAFCO") placed related mitigation measures in the terms and conditions, but in neither case were the mitigation measures followed after incorporation. Subsequently, it has become standard practice for the parties to negotiate mitigation terms and for these mutually agreeable terms to be attached to the LAFCO terms and conditions, and imposed as a term and condition of the incorporation.

If the City of Los Angeles and the Applicant negotiate such an agreement, the Commission must still make a finding that the agreement adequately mitigates the negative fiscal effect of the proposed Valley Special Reorganization. In the event that the parties do not negotiate such an agreement, this report sets forth recommended terms and conditions to mitigate the negative fiscal effect, for the Commission's consideration.

Mitigation of Negative Environmental Effects

The California Environmental Quality Act of 1970 ("CEQA")¹³ requires that significant environmental impacts be taken into consideration by the Commission prior to the Commission's discretionary approval of a proposal for a change in local government organization or reorganization. The Commission has retained a consultant to prepare an environmental impact

¹¹ Certain findings contained in the CFA have been modified in the supplemental report. Public Financial Management, Inc., *San Fernando Valley Proposal for Special Reorganization Supplemental Report*, February 15, 2002.

¹² California State Controller, *California State Controller's Review of the Proposed San Fernando Valley Special Reorganization Comprehensive Fiscal Analysis*, April 2002.

¹² Government Code section 56845.

¹³ California Public Resources Code section 22000, *et seq.*

report (“EIR”) for the proposed Valley Special Reorganization. The draft EIR has been released and distributed for review. The final EIR should be released at the beginning of May 2002, and must be taken into consideration by the Commission before making its determinations regarding the Valley Special Reorganization.

Terms and Conditions

The Commission must adopt a resolution making determinations—a document indicating whether or not the Commission approves or disapproves the proposal and listing any terms and conditions for approval.¹⁴

In making its decision, the Commission is charged with taking into consideration such factors as:

- the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years,
- the present cost and adequacy of governmental services and controls in the area,
- the probable effect of the proposed incorporation... and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas, and
- the effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.¹⁵

The Legislature has given the Commission broad discretion regarding the terms and conditions that may be included in the resolution. The discretionary terms and conditions may include provisions regarding continuation of service delivery, the establishment of an effective date for the special reorganization, allocation of City assets and outstanding debts, and public employee rights and benefits, among other issues.

A resolution making determinations typically includes the following components:

- reasons for the reorganization,
- boundaries of the territory involved,
- a distinctive short-term designation to the affected territory and a description of the territory,
- property tax revenue to be exchanged by the affected local agencies,
- provisional appropriations limit of the proposed city, and
- directions for the conducting authority to initiate protest proceedings.

After the Commission adopts its resolution, there is a 30-day period during which parties may request reconsideration of the Commission’s decision or propose amendments to the resolution.¹⁶ If any such requests are received, the Commission must consider the request and may choose to wholly, partially or conditionally approve or disapprove the request, which may require amendment of the resolution.

Conducting Authority Proceedings

The conducting authority designated by the Commission conducts protest proceedings, and if required, calls for an election on the question of special reorganization. The conducting authority in

¹⁴ Government Code section 56851.

¹⁵ Government Code section 56841.

¹⁶ Government Code section 56857.

- A business environment that encourages new businesses, seeks to retain existing businesses, and seeks to create new quality jobs,
- Equal opportunity and fair representation for all residents,
- Equity in the distribution of services and representation, and,
- Government that is accessible, accountable, and responsive.²⁸

²⁸ Valley Study Foundation, Inc., *Applicant's Preliminary Vision Statement for a Valley City*, May 2000.

Proposed Valley Area

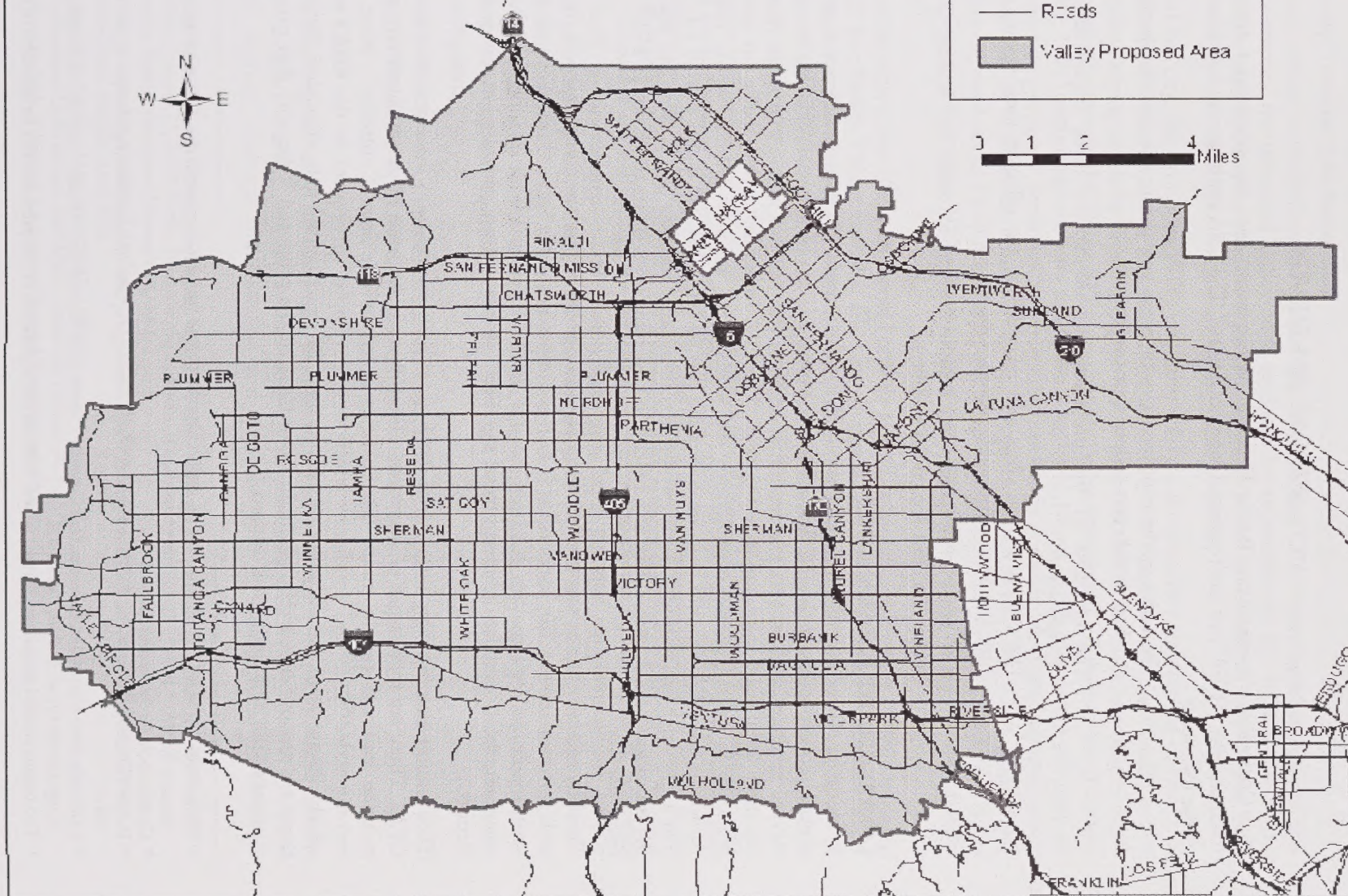


Legend

— Roads

Valley Proposed Area

0 1 2 4 Miles



FISCAL FINDINGS

The Commission's consultant Public Financial Management, Inc., has prepared a comprehensive fiscal analysis ("CFA") of the proposed reorganization.²⁹ The CFA must review and document each of the following:

- a) The costs to the proposed city of providing public services and facilities during the three fiscal years following incorporation.
- b) The revenues of the proposed city during the three fiscal years following incorporation.
- c) The effects on the costs and revenues of any affected local agency during the three fiscal years following incorporation.
- d) Any other information and analysis needed to make the findings required by Section 56375.1 (i.e., fiscal viability).³⁰

COMPREHENSIVE FISCAL ANALYSIS

Pursuant to Government Code section 56375.1, the Commission cannot approve a proposal for special reorganization unless it finds that the proposed city is financially viable, i.e. expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following incorporation. The CFA found that a new Valley city would receive revenues in excess of the expenditures for services for which it would assume responsibility. Although the CFA did find that the Valley city would be viable, the supplemental CFA indicated that a documentary transfer tax loss would necessitate that the new city borrow \$42 million during the transition period and achieve \$35 million in cost reductions by its third year in order to achieve fiscal viability.³¹

The City of Los Angeles requested that the State Controller review the comprehensive fiscal analysis with a focus on the City's concerns. For the most part, the State Controller's review of the comprehensive fiscal analysis validated that the fiscal analysis was both reasonable and accurate.³² However, the Controller did raise several significant points that are addressed in this section of the Report.

This section also provides a review of fiscal issues that deviate from the assumptions used in the CFA. There are three types of deviations. First, there is the issue of the documentary transfer tax revenue loss and certain minor discrepancies noted by the State Controller. Next, there are recommended terms and conditions which were developed subsequent to the CFA's release and which deviate from the assumptions used in the CFA, such as the debt allocation factors. Third, there are recommended changes in the boundaries of the proposed Valley city that present minor changes in the new city's fiscal outlook.³³

²⁹ Public Financial Management, Inc., *San Fernando Valley Proposal for Special Reorganization Comprehensive Fiscal Analysis*, January 9, 2002.

³⁰ Government Code section 56833.1.

³¹ Public Financial Management, Inc., *San Fernando Valley Proposal for Special Reorganization Supplemental Report*, February 15, 2002.

³² California State Controller, *California State Controller's Review of the Proposed San Fernando Valley Special Reorganization Comprehensive Fiscal Analysis*, April 2002.

³³ The recommended boundary changes would decrease the population of the proposed city by one-fifth of one percent.

Documentary Transfer Tax Reduction

Previous staff reports to the Subcommittee and the supplemental CFA report have pointed out that the CFA overstated the proposed Valley city's revenues by approximately \$31 million due to the proposed city's legal inability to levy the documentary transfer tax at its current rate.³⁴ The State Controller's office concurred that the new city could not levy this tax.³⁵

As a general law city, the proposed Valley city cannot levy a documentary transfer tax in excess of the tax authorized by Revenue and Taxation Code section 11911. State law does not limit the City of Los Angeles' levying authority for a tax on the sale of property due to its status as a charter city.³⁶ The City currently charges \$4.50 per \$1000 in property value transferred. Revenue and Taxation Code section 11911 authorizes counties to impose a tax of \$1.10 per \$1000 in value of property on deeds transferring property. Section 11911 permits cities within counties that have imposed such a tax to capture half of that amount from the county. Property owners in the City of Los Angeles pay both the City-imposed tax of \$4.50 per \$1000 and the County-imposed tax of \$1.10 per \$1000 (a city not in compliance with section 11911 cannot take any portion of the county's documentary transfer tax revenue).

As a general law city, a new Valley city would only be able to collect one-half of the County-imposed tax or \$0.55 per \$1000. This means that the City of Los Angeles would lose approximately \$35.1 million in documentary transfer tax revenue if the Valley detaches, and the Valley city would only be able to collect \$4.3 million in documentary transfer tax, based on its statutory entitlement to one-half of the County-imposed tax if it complies with Revenue and Taxation Code section 11911.

The Controller concluded that this revenue loss would not affect the level of reserves "because there would be a corresponding reduction in the mitigation payment to the City." The Controller asserted that Government Code section 56815(b)(1)³⁷ requires that the mitigation payment be based upon the revenue that actually accrues to the new city rather than the revenue lost by the City of Los Angeles. While the Controller correctly interprets what will be referred to herein as the "revenue neutrality test," set forth in Government Code section 56845(b), Legal Counsel has advised that section 56845(c)(2) provides the Commission with the discretion to address negative fiscal effects of the proposed incorporation that may not necessarily be reflected in the comparison of current revenues and expenditures accruing to the new city.³⁸ Thus, the Commission may consider whether or not the loss of the documentary transfer tax to the City of Los Angeles is a negative fiscal effect that should be mitigated.

The Executive Officer recommends that the new city's fiscal mitigation payment include the \$30.8 million negative fiscal impact of the City's loss of documentary transfer tax revenue.

Transition Costs

The City of Los Angeles asked the Controller to review the CFA estimate of transition costs that the City of Los Angeles and the new city would incur. The Controller concluded that the CFA had understated election, contracts administration and transition costs by \$640,000 in the first year

³⁴ *Special Reorganization of the San Fernando Valley Staff Report on Fiscal Findings, Transition Period, Revenues and Standard Terms and Conditions*, January 23, 2002; Public Financial Management, Inc., *San Fernando Valley Proposal for Special Reorganization Supplemental Report*, February 15, 2002.

³⁵ California State Controller, *California State Controller's Review of the Proposed San Fernando Valley Special Reorganization Comprehensive Fiscal Analysis*, April 2002.

³⁶ *Fielder v. City of Los Angeles*, 14 Cal.App.4th 137 (1993).

³⁷ Former Government Code section 56845(b)(1) under the Cortese-Knox Act..

³⁸ County of Los Angeles, Office of the County Counsel, *Revenue Neutrality*, July 19, 2000.

following incorporation and by \$1 million for subsequent years.³⁹ The Controller's estimate includes the estimated cost of validation of pre-existing bonds and accounting costs for closing the City's books in the middle of the fiscal year.

The Controller dismissed City of Los Angeles allegations that special reorganization would require the City's Information Technology Department to spend \$30 million in one-time contract negotiation costs and systems assessment. The Controller concluded that the transition costs discussed by the City do not need to be included in the CFA: "While there will inevitably be some transition costs as the new Valley city assumes direct service provision after the period covered by the CFA, both the City and the new Valley city will need to consider those costs at that time."⁴⁰

The State Controller's estimates of transition costs will be used in this analysis of the proposed Valley city's fiscal viability.

Transition Period Services

Because the Applicant did not provide a detailed transition plan and had originally proposed a three and one-half year transition period, the CFA assumed that the new city would contract with the City of Los Angeles for all services throughout the three and one-half year CFA planning horizon.⁴¹

The Subcommittee recommended an eighteen-month transition period during which the City of Los Angeles would provide services to the Valley. Further, the Subcommittee approved a staff recommendation that the new city be allowed to terminate particular transition period services upon giving the City six months notice. Additionally, the Subcommittee approved a staff recommendation that the City of Los Angeles be authorized to reduce transition period service levels in the event of revenue shortfalls.⁴²

These recommendations have implications for the Valley city's fiscal viability. Specifically, the terms and conditions provide the Valley and the City with the flexibility to reduce transition period services to accommodate insufficient revenues. Due to the six-month notification requirement, there would be limited opportunity for the new city to reduce expenditures during the first six months. However, the new city could feasibly reduce expenditures during fiscal year 2003-4 by canceling certain transition period services and providing these services directly at a lower cost. The City of Los Angeles may also reduce service costs during the first six months if the Valley's revenues do not cover the costs of the current service configuration.

The Applicant's transition plan envisions the new city providing only a limited set of services directly during the first six months of operation, and does not identify significant cost savings during this period. During fiscal year 2003-04, the Applicant envisions that the new city's Council and Mayor would cost 30 percent less than the Valley's share of the current City of Los Angeles expenses for these departments. However, the cost savings for this item is \$2.8 million. Although the Applicant did identify \$41.6 million in cost savings during the transition period, virtually all of these savings related to the Applicant eliminating retirement contributions, police and fire contract negotiations, response to the Rampart scandal, and a tax database modernization.⁴³ The CFA supplemental

³⁹ California State Controller, *California State Controller's Review of the Proposed San Fernando Valley Special Reorganization Comprehensive Fiscal Analysis*, April 2002.

⁴⁰ Id.

⁴¹ Public Financial Management, Inc., *San Fernando Valley Proposal for Special Reorganization Comprehensive Fiscal Analysis*, January 9, 2002.

⁴² *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

⁴³ Valley Study Foundation, Inc., *Special Reorganization of the San Fernando Valley Transition Plan*, January 28, 2002.

report found these expenditures to be reasonable costs that would be incurred in providing service to the new city, and should not be excluded without further explanation, which was not provided in the transition plan.⁴⁴

Debt Allocation

Consistent with the Subcommittee's recommendations, the Executive Officer recommends that the Commission adopt debt-related terms and conditions that deviate from the assumptions used in the CFA.⁴⁵

The CFA had used debt allocation factors based on the proportion of employees or assets transferred. The CFA debt allocation factors are generally less than the Valley's revenue contributions. The CFA also did not allocate a share of the Convention Center debt payments made from the City's general fund to the new city.⁴⁶

The Subcommittee approved staff recommendations that debt paid from general fund resources should be allocated to the Valley based on its recent contribution to the general fund. Subsequently, the Controller took issue with the CFA's approach to allocating City of Los Angeles debt on the basis of the proportion of employees allocated to the San Fernando Valley rather than the Valley's contribution to the City's general fund. The Controller argued that \$4.0 million in lease obligation and judgment obligation bond debt should be allocated on the basis of the City's loss of general fund monies.⁴⁷

The Subcommittee addressed not only the debt items raised by the State Controller, but also addressed Convention Center debt, worker's compensation and liability claims. This had the effect of removing \$25 million from the fiscal mitigation payment, and classifying it explicitly as a debt payment owed by the new city. The parties agreed to separate this debt from the mitigation payment at the March 7, 2002 negotiation session due to concerns about the Valley's debt payments being phased out if included in the mitigation payment.

The State Controller concluded that the CFA's under allocation of debt "would virtually eliminate the projected new Valley city general fund reserves."⁴⁸ The Executive Officer, however, does not agree with the Controller's logic regarding the connection between debt under-allocation and reserves. Because the under-allocation of annual debt payments (\$25 million) is less than the estimated fiscal mitigation payment, the Commission's decision to allocate the debt at a higher rate to the Valley area would simply reduce the fiscal mitigation payment. On net, the debt reallocation would have a negligible effect on the Valley city's reserves or fiscal viability.

⁴⁴ Public Financial Management, Inc., *San Fernando Valley Proposal for Special Reorganization Supplemental Report*, February 15, 2002.

⁴⁵ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

⁴⁶ Public Financial Management, Inc., *San Fernando Valley Proposal for Special Reorganization Comprehensive Fiscal Analysis*, January 9, 2002.

⁴⁷ California State Controller, *California State Controller's Review of the Proposed San Fernando Valley Special Reorganization Comprehensive Fiscal Analysis*, April 2002. The Controller's report erroneously classified the "General City Purposes" budget line item as having been under allocated by \$2.8 million in the CFA. The Controller's office had thought that this budget item consisted of general obligation debt; however, this budget item consists primarily of retirement contributions and an anti-crime program.

⁴⁸ *Id.*

Asset Allocation

Consistent with the contract-for-service assumption, the CFA assumed that the City of Los Angeles would continue to own all assets currently used to service the San Fernando Valley. Further, the CFA had assumed that fund balances, such as the City of Los Angeles general fund emergency reserve, would be retained by the City.⁴⁹

The Subcommittee generally recommended allocating assets consistent with the California Legislative Counsel's legal opinion regarding assets. Specifically, under the Subcommittee's recommendation, a proportional share of fund balances would be allocated to the proposed Valley city based on the Valley's estimated contribution of revenues supporting that particular fund. Further, the Subcommittee recommended that local service-related assets, streets, storm water facilities, and miscellaneous assets be transferred from the City to the Valley on the effective date.⁵⁰ In this Report, the Executive Officer recommends that the Commission adopt these terms and conditions regarding assets.

The allocation of City fund balances to the Valley increases the reserves available to the Valley during the transition period above the levels contemplated in the CFA. The City reserve fund policy states that the contingency and emergency reserve funds should be two percent of general fund revenues, implying that the City would have a reserve fund balance of at least \$60 million upon the effective date. Although the actual amount of reserves that would be transferred to the Valley is unknown, it is anticipated that a minimum of \$18 million in reserves would transfer to the Valley upon incorporation if the Commission adopts the recommended terms and conditions.

The City's 2000-01 budget envisioned depleting the City's reserve fund balance by \$37 million, but due to revenue windfalls not anticipated in the budget, the City ended up adding \$144 million to its reserves that year. The CFA used the adopted fiscal year 2000-01 budget figures as its numeric basis. Consistent with its assumption that fund balances would not transfer, the CFA did not allocate the City's draw from its reserve fund or fund balances to the proposed Valley city revenues.⁵¹

The Executive Officer has provisionally added the \$20.1 million in fund balances to the Valley revenues consistent with the numeric basis of the City's adopted fiscal year 2000-01 budget. This allocation has been done for the sake of consistency with the numeric basis, however the fund balance allocation does not really affect either party's long-term costs or revenues. If the numeric basis of the fiscal estimates were adjusted to conform with the actual use of reserves and fund balances in the special reorganization base year, the allocations would likely change significantly. The Executive Officer found that the data needed to adjust the numeric basis will not be available until the Los Angeles Mayor releases his proposed budget later this month, as the proposed budget contains the City's actual revenues and expenditures in the special reorganization financial base year. The Executive Officer anticipates that further changes in the financial allocation factors may be required to resolve this issue.

⁴⁹ Public Financial Management, Inc., *San Fernando Valley Proposal for Special Reorganization Comprehensive Fiscal Analysis*, January 9, 2002.

⁵⁰ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

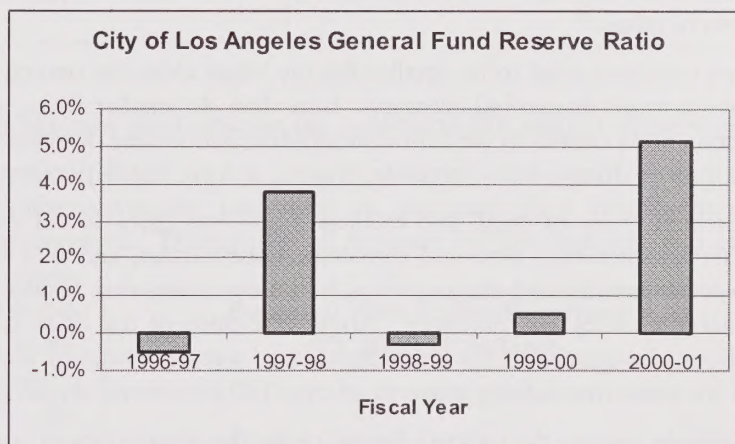
⁵¹ Public Financial Management, Inc., *San Fernando Valley Proposal for Special Reorganization Comprehensive Fiscal Analysis*, January 9, 2002.

Reserves

The CFA had estimated that the Valley city's general fund reserve ratio would be 0.1 percent in the first year of the new city's existence, and that it would increase to 2.3 percent over the three-year period without relying on a transfer of any of the City of Los Angeles' reserve funds.⁵² In its request for the Controller review, the City expressed concerns about the adequacy of the proposed city's reserves in its first year. Further, the City questioned the CFA estimate of an eventual 2 percent reserve. The City's opinion is that "the CFA has assumed a level of fiscal stability in the proposed new city greater than in the existing City of Los Angeles without having a basis for doing so."⁵³

The Controller concluded that "no authoritative basis exists upon which a 'sufficient' level of reserve can be determined."⁵⁴ However, the Controller asserted that the Valley city's projected reserves are considerably lower than were Los Angeles and San Diego's undesignated reserves in fiscal year 1998-99. Further, the Controller indicated that undesignated reserves tend to fluctuate significantly from year to year, and that projections of reserve levels are unreliable.

Indeed, the City of Los Angeles general fund reserves have fluctuated significantly over the last several years. The City entered fiscal year 1997-98 without any undesignated reserves; in fact, the City's financial statements reported slightly negative reserves as of June 1997.⁵⁵ By the end of fiscal year 2000-01, which is the base year for purposes of the CFA, the City's reserves were \$159 million or 5.4 percent of annual general fund revenues.⁵⁶ However, the



City has apparently depleted a good portion of that reserve in the current fiscal year due to unanticipated revenue shortfalls, and is currently attempting to maintain a \$60 million emergency reserve.⁵⁷ This represents 1.9 percent of general fund revenues. If the City uses all or part of the \$60 million reserve fund to balance its budget this year, the reserves available in fiscal year 2002-03 may be lower than 2 percent.

⁵² Public Financial Management, Inc., *San Fernando Valley Proposal for Special Reorganization Comprehensive Fiscal Analysis*, January 9, 2002.

⁵³ Letter from City of Los Angeles Mayor James K. Hahn to LAFCO Executive Officer Larry Calemine. "Request by the City of Los Angeles for the State Controller's Review of the Comprehensive Fiscal Analysis for the Proposed Special Reorganization for the San Fernando Valley", February 11, 2002.

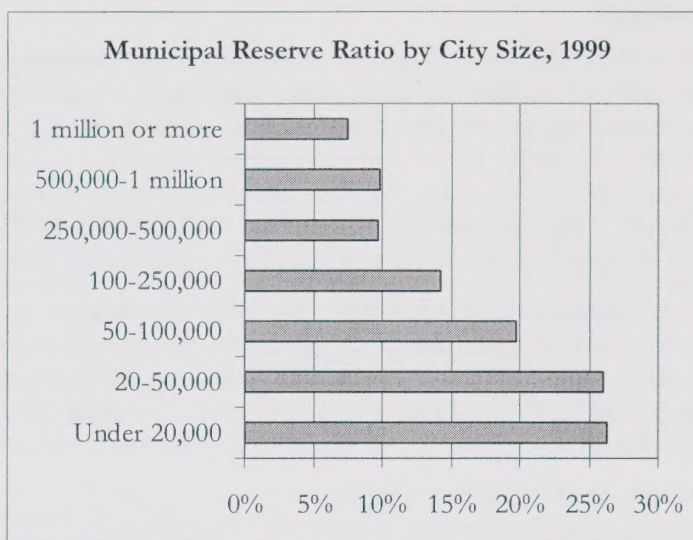
⁵⁴ California State Controller, *California State Controller's Review of the Proposed San Fernando Valley Special Reorganization Comprehensive Fiscal Analysis*, April 2002.

⁵⁵ City of Los Angeles, Office of the Controller. *Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 1997*, December 22, 1997.

⁵⁶ City of Los Angeles, Office of the Controller. *Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2001*, January 18, 2002.

⁵⁷ City of Los Angeles, Office of the Controller, *Estimate of Revenue for Fiscal Year 2002-03*, March 1, 2002.

In general, smaller cities tend to maintain a larger share of resources in reserves than do larger cities. The accompanying figure illustrates the relationship between city size and reserve ratio, and is based on the fiscal year 1999 financial data of 1,500 American cities. While small cities maintained a reserve fund balance of about one-quarter of their annual resources, medium-sized cities maintained reserve fund balances of about 10-15 percent of their annual resources, and larger cities maintained 7-10 percent reserve ratios.⁵⁸



Reserve ratios tend to be smaller for the larger cities for several reasons. First, larger cities typically have a more diversified economic base than do smaller cities, and are less vulnerable to economic fluctuations caused by an economically fragile business or industry. Second, larger cities tend to rely on a more diverse set of revenue streams, and are less dependent on volatile sales and hotel taxes.

A recent study of small and medium California cities found that the top reasons for setting aside reserves were cash flow and economic uncertainties, and that secondary reasons were vulnerability to state actions and disasters.⁵⁹ The study found that California cities vary significantly in their reserve policies and practices. About one-third of the cities had no policy on municipal reserves. About one-quarter of the cities maintained a reserve ratio of less than 10 percent, while five percent of the cities maintaining reserves of over 100 percent of annual resources.

Similarly, among the nation's largest cities, the reserve practices vary widely. The City of New York maintained a relatively low reserve ratio of slightly over one percent in 1995 and 1999, while Phoenix maintained 23-25 percent of resources in reserve.

Among the larger cities, Los Angeles, Boston and Jacksonville had 1995 reserves that were comparable to other cities, but had depleted these reserves to less than one percent of resources in 1999. A few large cities with populations in the range of 500,000 to 1 million—Seattle and Baltimore—maintained reserves that were less than ½ of one percent of municipal revenues in both 1995 and 1999.

After examining the reserve practices of other cities, the Executive Officer concurs with the State Controller that no authoritative basis exists for establishing reasonable reserves. The most reasonable standard for the Valley's reserves is the City of Los Angeles undesignated reserve ratio, which has averaged 1.7 percent of general fund revenues over the past five years. The Executive Officer concludes that the City of Los Angeles has weathered the last five years with an average undesignated reserve ratio of 1.7 percent annually, a figure slightly lower than the expected reserve ratio of the proposed city. Accordingly, the Executive Officer recommends that the proposed

⁵⁸ Reserve ratios are based on Government Finance Officers Association, *1999 Financial Indicators Data—Cities*. Reserve ratios are the ratio of the undesignated, unreserved general fund balance to general fund revenues for the fiscal year.

⁵⁹ Lawrence, Anita, California League of Cities, *Management of Public Funds: The Adoption of Reserve Policies in California Cities*, 2000.

reserve ratio be deemed reasonable, given that the proposed city is allocated a share of the City's existing reserve fund and the proposed city is not expected to draw from that reserve fund.

FISCAL VIABILITY

As indicated in the Appendix tables detailing the projected revenues and expenditures of the proposed city, the Executive Officer projects that the Valley would need to either increase its revenues or decrease its expenditures by approximately \$18 million annually during the transition period (see scenarios A and C on the Appendix chart entitled "San Fernando Valley Fiscal Viability Computations"). This needed budget adjustment represents only 1.7 percent of the Valley's baseline expenditures. If the Valley does not implement an \$18 million revenue increase or cost reduction plan during the transition period, then the Valley would need to borrow approximately \$30 million during the course of the eighteen-month transition period (to be repaid with interest over the five years subsequent to the transition period) to sustain current spending patterns. In addition, if the Valley borrows these funds, the new city would need to make a larger budget adjustment of approximately \$25 million beginning in fiscal year 2004-05 in order to repay the loan (see scenario B on the Appendix chart).

Potential Valley Revenues

This section of the Report discusses the new city's options for generating \$18 million of increased revenue.

The new city would have several alternatives for increasing its revenues on a permanent or temporary basis without seeking voter approval. These potential revenues involve franchise fees and offer the new city the opportunity to raise up to \$27 million in additional revenue. Public Utilities Code section 6201, *et seq.* authorizes general law cities to impose a two percent franchise fee on electric, gas, water and oil utilities. Franchise fee imposition does not require voter approval.

Potential New Valley Revenues (FY 2000-01 dollars)	
Water Franchise Fee (2%)	\$ 4,000,000
Electric Franchise Fee (2%)	\$ 22,900,000

Elsewhere, this Report recommends that the Valley be obligated to extend a franchise to the City's Department of Water and Power for electric and water service and to the City's Department of Public Works for wastewater service. When local government agencies negotiate a franchise agreement with a utility provider, the agency may require the utility provider to pay a franchise fee for use of the rights-of-way. If the Valley were to impose such a franchise fee for use of the Valley rights-of-way, the Executive Officer estimates that it would generate an additional \$27 million.⁶⁰

The Executive Officer concludes that the proposed Valley city's potential revenues exceed the revenue projections by approximately \$27 million. These potential revenues exceed the revenue shortfall.

⁶⁰ The Valley share of potential franchise fee revenues is based on the Valley share of electric utility users tax and wastewater service charges, as estimated by the City of Los Angeles. The utility gross receipts were estimated from the operating revenue reported on the City's FY 2000-01 water and power financial statements.

Potential Cost Savings

Another method of addressing the \$18 million projected revenue shortfall during the transition period involves reducing service costs. This Report has recommended that the City of Los Angeles be authorized to reduce service costs and levels in the Valley in the event of revenue shortfalls. A 1.7 percent reduction in service costs appears to be achievable within a relatively short time period if a six-month hiring freeze were implemented relevant to employees servicing the San Fernando Valley. The City's natural employee attrition rate of 7 percent annually would easily accommodate the needed cost reductions within the first six months of incorporation. Indeed, the City of Los Angeles has implemented a hiring freeze during the current fiscal year and may, in fact, achieve the needed cost reductions prior to the effective date of the new city.

Even if the City of Los Angeles is not willing to allow employee attrition to reduce service costs during the transition period, the new city would have additional options for reducing its service costs by assuming direct responsibility for service delivery. Elsewhere in this report, the Executive Officer has recommended authorizing the new city to cancel some or all transition period services with six months notice. Once the Valley assumes direct responsibility for service delivery, the new city will have greater control over reducing service costs by allowing employee attrition to reduce the new city's payroll. Indeed, the Applicant's transition budget envisions implementing three percent cost reductions, which is double the rate needed in order for the new city to maintain a reasonable level of reserves.⁶¹ Although it is unlikely that the new city would assume responsibility for public safety and public works functions during the transition period, it is reasonable to expect that the new city would assume responsibility for regulatory and central service functions. If the new city were to achieve ten percent cost reductions in areas other than public safety and public works, that would accomplish the \$18 million budget reduction.

Conclusion

In most California incorporations, new cities borrow the cost of transition period services during the start-up phase and repay this loan over a five-year period. In the case of the Valley Special Reorganization, the City of Los Angeles is opposed to extending such a loan to the new city. Further, the reorganization will reduce tax revenues in the new city by approximately \$31 million, an amount exceeding the increased state subventions that the new city will receive during its early years.

The Executive Officer finds that the loss in documentary transfer tax revenues creates a \$18 million (1.7 percent) revenue shortfall for the new city. As discussed above, the new city would have several options for implementing franchise fees to replace the lost documentary transfer tax revenue without the delays and uncertainty associated with gaining voter approval which may be required for other revenue sources.

If the new city does not levy franchise fees, the new city could address the \$18 million shortfall by borrowing \$30 million during the transition period and by implementing a six-month hiring freeze after the transition period.

REVENUE NEUTRALITY FINDING

The San Fernando Valley currently generates \$55.8 million more in revenues than is spent on service delivery in the area.

⁶¹Valley Study Foundation, Inc., *Special Reorganization of the San Fernando Valley Transition Plan*, January 28, 2002.

The CFA determined that current revenues accruing to the Valley would exceed current expenditures that would be assumed by the Valley by \$65.8 million.⁶² After factoring in the effects of removing the eastern portion of Cahuenga Pass, readjusting the debt allocations,⁶³ and accounting for documentary transfer tax reductions, the current revenues accruing to the Valley would exceed current expenditures that would be assumed by the Valley by \$25 million.⁶⁴ Thus, the proposed Valley Special Reorganization would not be revenue neutral.

As discussed earlier, the Valley Special Reorganization would still result in an annual negative fiscal effect on the City of Los Angeles of \$55.8 million if the City's loss of documentary transfer tax revenue in the amount of \$30.8 million is taken into consideration. Based on the above, the Executive Officer recommends that the Commission find that the Valley Special Reorganization would have an annual negative fiscal effect on the City of Los Angeles of \$42.4 million that should be mitigated.⁶⁵

It should be noted that the County of Los Angeles' documentary transfer tax revenue would be reduced by \$4.3 million pursuant to Revenue and Taxation Code section 11911, when the new city imposes its documentary transfer tax. This revenue reduction could be considered an annual negative fiscal effect on the County, however, since the County is required by statute to share these revenues with any city within its boundaries that imposes a documentary transfer tax pursuant to section 11911, the Executive Officer recommends against requiring the Valley City to compensate the County for this loss. Because the City of Los Angeles' documentary transfer tax was greater than that allowed pursuant to section 11911, the County has not had to share one-half of its tax with the City, and therefore, has received the benefit of collecting and retaining the full tax for a number of years.

⁶² Public Financial Management, Inc., *San Fernando Valley Proposal for Special Reorganization Comprehensive Fiscal Analysis*, January 9, 2002; Government Code section 56845 prohibits the Commission from approving a proposal that includes an incorporation unless it finds that the following are substantially equal:

- (a) revenues currently received by the agency transferring the affected territory which would accrue to the local agency receiving the affected territory; and
- (b) expenditures currently made by the local agency transferring the affected territory for those services which will be assumed by the local agency receiving the affected territory.

⁶³ The CFA debt allocations have been readjusted to reflect the Subcommittee's February 25, 2002 recommendations regarding the allocation of liabilities between the City of Los Angeles and the proposed Valley City, in large part, based upon the general fund revenue allocation ratio requested by the City of Los Angeles. Minutes of the Meeting of the Local Agency Formation Commission of the County of Los Angeles Findings, Terms & Conditions Subcommittee, February 11, 2002.

⁶⁴ It should be noted that the revenue neutrality figures differ from the fiscal viability figures in that they do not account for revenue increases that the Valley would receive due to state subvention formulas that favor new cities.

⁶⁵ Pursuant to Government Code section 56845(c), if current revenues and current expenditures are not substantially equal, the Commission may only approve a proposal if it finds that: (1) the county and all other subject agencies agree, or (2) any negative fiscal effect of the incorporation is adequately mitigated by tax sharing agreements, or other terms and conditions imposed by the Commission.

MITIGATION PAYMENT

As the proposed terms and conditions have been developed, the negative fiscal effect on the City of Los Angeles has evolved, as indicated in the accompanying table.

Although the CFA originally estimated the Valley fiscal mitigation payment as \$65.8 million, the recommended terms and conditions would alter that amount. Subsequent to the release of the CFA, the Commission decided to consider the exclusion of the Cahuenga Pass neighborhood from the proposed city. Also reducing the mitigation payment are the recommendations relating to debt and fund balance allocation that deviate from the assumptions used in the CFA.

Nearly all of the reallocations relate to the development of terms and conditions that differ from the assumptions used in the CFA. However, the Executive Officer has also updated the population adjustment factors to the 2000 census year, and updated the property tax allocation to conform with the special reorganization financial base year.⁶⁶

In addition, the Executive Officer has reviewed available evidence on the relationship between city size and municipal government cost efficiencies, and found that the City of Los Angeles should be able to provide services relatively more cheaply after a reduction in its size. Thus, the Executive Officer concludes that the City of Los Angeles would be able to accommodate the recommended phase-out of the mitigation payment through gradual cost savings. During the required planning horizon, the remaining City of Los Angeles would need to reduce its costs by about ½ of one percent, a figure much lower than the City's natural employee attrition rate.

Based on these adjustments, the Executive Officer finds that the negative fiscal effect on the City of Los Angeles would be \$55.8 million.

Stranded Costs

The City of Los Angeles has alleged that the CFA ignored a \$310 million fiscal impact that the City would face at the end of the transition period when the Valley is no longer paying for a share of centralized and non-divisible costs. The City asserts that the CFA understated the fiscal mitigation payment by approximately \$310 million in "stranded costs." The City also asked the Controller to

Fiscal Mitigation Payment Changes (in \$ millions)	
CFA Estimate	
Originally proposed boundaries	\$ 65.8
Remove Cahuenga Pass neighborhood	\$ 61.3
Include Eastern Cahuenga & Universal parcels	\$ 61.5
Allocate debt based on revenue shares	
Workers' Compensation	\$ 58.3
Liability claims	\$ 56.2
Judgment obligation bond debt service	\$ 54.9
CFAF lease revenue bonds	\$ 47.6
Convention center debt (general fund share)	\$ 36.7
Tax and revenue anticipation notes	\$ 35.2
Revenue allocation updates	
FY 2000-01 property tax allocation factor	\$ 25.9
2000 Census population adjustments	\$ 26.7
Allocate reserve transfers	\$ 34.2
Allocate special fund balances	\$ 55.8

⁶⁶The 2000 Census-based population allocation factor was estimated by the Urban Research Division of the County of Los Angeles. The fiscal year 2000-01 property tax allocation factor was estimated by the County Auditor-Controller, County Assessor, and Public Financial Management. The updated property tax allocation factor is preliminary, and shall be finalized prior to the Commission's adoption of the special reorganization resolution.

confirm that the CFA had not included the “stranded costs” in calculations of the fiscal mitigation payment.⁶⁷

In the City’s letter requesting the Controller’s review of the CFA, the City indicated that the appropriate fiscal analysis of the stranded cost issue depends on interpretation of revenue neutrality statute.⁶⁸ The City indicated to the Controller that “disputes over that interpretation must be resolved, if they are to be resolved, in the courts.” Nonetheless, the Controller weighed in on the issue:

Government Code section 56815⁶⁹ validates the CFA’s methodology to base mitigation payments solely on the difference between current revenue and current expenditures. Therefore, the CFA is not required to reflect cost impacts the City may realize at the end of the period covered by the CFA.⁷⁰

Although the Applicant has indicated agreement with the CFA estimate of the fiscal mitigation payment, the City of Los Angeles has argued that the fiscal mitigation payment should be increased by approximately \$310 million to compensate for fixed costs (or “stranded costs”) that the City faces regardless of whether or not the Valley is included in its boundaries. Conceptually, stranded costs are those costs that the City would continue to bear after special reorganization without the accompanying revenue base to pay for the costs.

Although the net “stranded costs” submitted by the City on February 11, 2002 were approximately \$250 million, the City’s submittal of stranded cost data included \$60 million in expenditures that the City asserts the CFA failed to allocate to the new city.⁷¹

City Functions Classified Primarily as Stranded Costs	
	Percent
City Administrative Officer	100%
City Clerk	92%
Commission for Children, Youth & Their Families	100%
Commission on the Status of Women	100%
Controller	100%
Council	100%
Disability	94%
Emergency Preparedness Department	100%
Employee Relations Board	100%
Environmental Affairs	93%
Human Relations Commission	100%
Information Technology Agency	99%
Mayor	100%
Personnel	100%
<i>Note: Percent is the stranded cost as a percent of the CFA allocation.</i>	

The City has classified its central service functions predominantly as stranded costs. As indicated in the accompanying table, the City considers its costs associated with executive management to be

⁶⁷ Letter from City of Los Angeles Mayor James K. Hahn to LAFCO Executive Officer Larry Calemine. “Request by the City of Los Angeles for the State Controller’s Review of the Comprehensive Fiscal Analysis for the Proposed Special Reorganization for the San Fernando Valley”, February 11, 2002.

⁶⁸ Government Code section 56845.

⁶⁹ Former Government Code section 56845 of the Cortese-Knox Act.

⁷⁰ California State Controller, *California State Controller’s Review of the Proposed San Fernando Valley Special Reorganization Comprehensive Fiscal Analysis*, April 2002, page 26.

⁷¹ These allegedly under allocated costs are primarily associated with debt, the Bureau of Sanitation, and the Capital Improvement Expenditure Program. Elsewhere in this report, it is recommended that the Commission allocate debt to the new city in the manner proposed by the City, reducing the City’s alleged under allocated costs to approximately \$20 million.

unrelated to the scale of its constituent or revenue base. The City considers its costs associated with the Personnel Department to be entirely fixed and unrelated to the size of the City workforce. Similarly, the City considers its computer staffing to be unrelated to the size of the City workforce.

The City has classified a significant portion of costs associated with direct service as “stranded costs” that would not decline if the size of the City were reduced. The City views one-third of its policing costs to be unrelated to the volume of crime, and over one-third of its street lighting costs to be unrelated to the number of street lights being maintained. The City views nearly half of its planning costs to be unrelated to the size of the city or the number of buildings therein. The City’s other stranded cost allegations for direct service departments are listed in the accompanying table.

City Direct Service Costs Alleged as Stranded Costs	
Animal Services	19%
Building & Safety	41%
Fire	9%
Planning	47%
Police	34%
Street Lighting	37%
<i>Note: Percent is the stranded cost as a percent of the CFA allocation.</i>	

Economies and Diseconomies of Scale

A critical question in evaluating the City’s claim regarding stranded cost is whether or not there are economies of scale in local government. By economies of scale, we mean greater cost efficiencies due to large size. That is, as a city grows, these fixed costs can be shared by a larger and larger population base, which results in a lower per capita cost. Or, as Los Angeles alleges, if the city shrinks these same costs must be borne by a smaller population base, and the cost per capita rises.

If local government costs tend to be relatively lower at large cities than at smaller cities, that would support the City’s stranded costs argument by indicating that large cities are able to provide services more cheaply because their fixed costs are spread among a larger revenue base. If municipal government costs tend to be proportional to the size of a city, that would mean that the costs tend to vary with the size of the city and that the City of Los Angeles should be able to adjust to its smaller size by reducing costs. If municipal costs tend to be relatively higher at large cities than at smaller cities, that would indicate that the City should be able to reduce its expenditures on more than a proportionate basis if the size of the City is reduced.

Staff reviewed the academic literature on this question, and has also addressed the question by analyzing a database of municipal government costs at 1,500 cities nationwide and 15 larger California cities.

Evidence from the Academic Literature

The academic studies⁷² on this topic have found that economies of scale are relevant only among the smallest of cities.

For larger metropolitan cities the literature suggests that diseconomies of scale

exist in policing as well as refuse collection, general government and fire services. This means that the per capita costs of providing municipal services tend to be higher at large cities than at smaller cities. That is, the per capita costs of local government *rise* as city population, crime or other measures of government output increase.

The most recent studies relate to police departments. A Florida study (Gyimah-Brempong) found significant diseconomies of scale, with the largest cities providing the most expensive police service. The author cautioned against consolidation of municipal police departments due to the implications regarding inefficiency at larger police departments. A Los Angeles area study (Finney) reached the same conclusion regarding diseconomies of scale in southern California municipal policing.

Rider's study reached similar conclusions for fire service. The author notes "expenditure per capita is greatest in the densest and least dense regions. This yields the familiar 'U' shaped curve." What appears from his study, and others, is that the benefits from economies of scale are experienced when a very small city (under 4000) grows in population. Among larger cities, however, there are diseconomies of scale in fire service, with greater per capita costs.

One of the first studies to discover the higher relative costs at larger cities was a broader study focused on

Academic Studies Rejecting Municipal Government Economies of Scale

Finney	1999	Police departments
Finney	1997	Police departments (Los Angeles area)
Gyimah-Brempong	1986, 1987, 1989	Police departments
Rider	1979	Fire departments
Walzer	1972	Police departments
Hirsch	1965	Refuse collection
Hirsch	1959, 1962	General government and fire protection

Public Safety Costs by City Size



⁷² Finney, Miles, "Constituency Preference and police consolidation: the case of West Hollywood" *Contemporary Economic Policy*, April 1999, v17 i2 p235(8). Gyimah-Brempong, Kwabena "Economies of Scale in Municipal Police Departments: The Case of Florida," *The Review of Economics and Statistics*, Vol. 69, Issue 2 (May, 87) 352-356. Rider, Kenneth, "The Economics of the Distribution of Municipal Fire Protection Services," *The Review of Economics and Statistics*, Volume 61, Issue 2 (May, 1979) 249-258. Walzer, Norman "Economies of Scale and Municipal Police Departments: The Illinois Experience," *The Review of Economics and Statistics*, Vol. 54, Issue 4 (Nov, 72) 431-438. Hirsch, Werner Z., "Cost functions of an Urban Government Service: Refuse Collection," *The Review of Economics and Statistics*, Vol 47 Issue 1, (Feb, 1965) p.87-92. Hirsch, Werner Z., "Expenditure Implications of Metropolitan Consolidation Revisited," *The Review of Economics and Statistics*, Vol 44 Issue 3, (Aug, 1962) p. 344-346. Hirsch, Werner Z., "Expenditure Implications of Metropolitan Consolidation," *The Review of Economics and Statistics*, Vol 41 Issue 3, (Aug, 1959) p.232-241

a smorgasbord of municipal services provided by St. Louis area cities (Hirsch, 1959). In explaining this finding, Hirsch wrote “serious technological diseconomies can accompany large local government, which tends to lose efficiency because of political patronage and general administrative top-heaviness.” Hirsch did find, however, that municipal water and sewage services were relatively less expensive when organized as larger service areas.

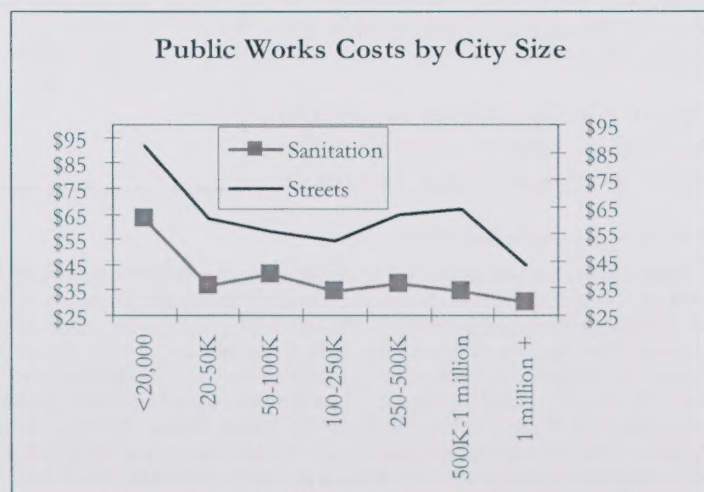
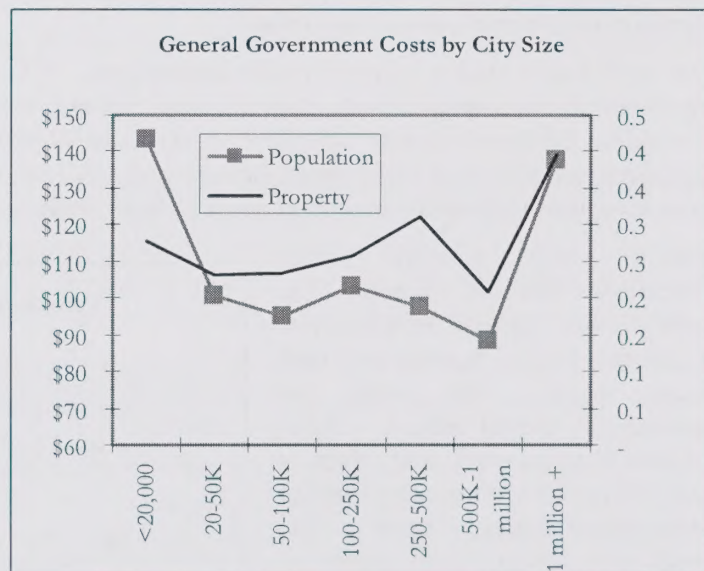
Empirical Evidence

Using a Government Finance Officers Association database of municipal expenditures of approximately 1,500 cities in the United States, staff has found that public safety costs per capita tend to be higher for larger cities (see table entitled Public Safety Costs by City Size). These data indicate that only among the smallest cities with populations less than 20,000 are there increasing returns to scale. Public safety costs are the lowest for cities with 20-50,000 residents, and tend to increase with city size.

In order to test whether this relationship relates to the cost of living in larger cities rather than size, we plotted the public safety costs as a percent of property values and found again that the costs were higher at the larger cities. In other words, among American cities public safety costs tend to be higher at larger cities; this finding does not appear to be explained by the higher cost of living in larger cities.

In the general government category, we found a similar relationship between city size and government costs, with particularly dramatic central service costs among the nation’s largest cities. Again, this relationship between costs and city size does not appear to be explained by a higher cost of living in the larger cities, because the large cities had higher expenditures compared with the aggregate value of property as well as the population.

In municipal public works service, the American city data indicate that there do appear to be decreasing costs at the largest cities for street services. For sanitation service, there do not appear to be greater inefficiencies at the larger cities, and there may in fact be some economies



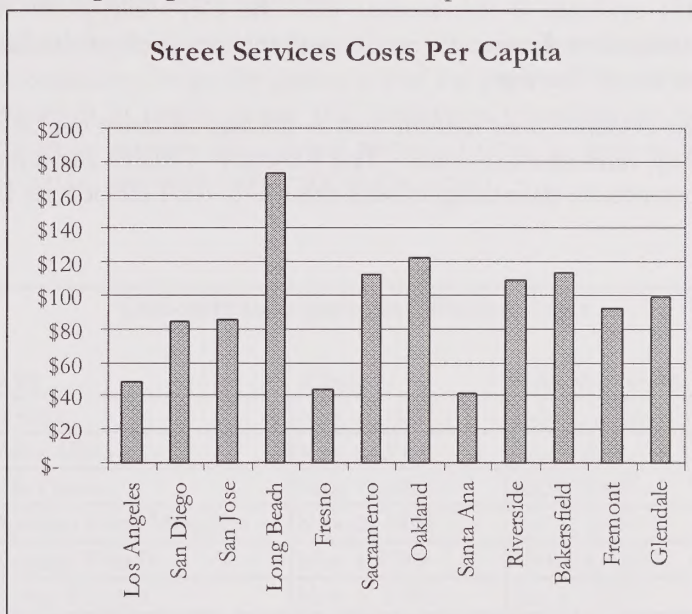
of scale. At least in the case of street services, there do appear to be efficiencies gained from serving a larger area.

City of Los Angeles and Public Works

Given the finding that there appear to be economies of scale in the delivery of street maintenance service, and possibly in the area of sanitation service, these areas of City stranded cost allegations bear further examination. The City claimed that about 25 percent of its street services costs are “stranded,” but did not make similar claims regarding stranded costs in the provision of sanitation service.

To further examine street services costs, we compare the per capita street services costs in the City of Los Angeles to other medium and large California cities. In fact, the largest cities do have somewhat lower costs than do the medium-sized cities. The City of Los Angeles’ costs in this area are particularly low compared with other cities.

The relatively low street service costs in Los Angeles may be attributable to economies of scale. Whether or not the lower street services costs in Los Angeles are attributable to a below-average service level or greater efficiencies is unknown. If Los Angeles will lose economies of scale if the Valley no longer contracts for street maintenance service, the Valley will also lose economies of scale if it were to provide street services directly. It would appear that both parties have financial incentives for a long-term contract-for-service relationship in the area of street services. If there are indeed economies of scale in street maintenance service, the Executive Officer views the parties’ incentives to collaborate to be sufficient. The Executive Officer does not consider this issue to require an increase in the fiscal mitigation payment.



Central Services

By comparing the City of Los Angeles budget for central services to San Diego and San Jose, the Executive Officer finds no evidence for stranded costs in the City Attorney and City Clerk departments. Other large California cities manage to keep their expenditures on these central services roughly in proportion to their city size. San Diego’s population is approximately one-third of the Los Angeles population, and San Diego’s City Attorney and City Clerk budgets are one-third the size of their counterparts at the City of Los Angeles. Similarly, San Jose’s population is about one-fifth of the Los Angeles population, and San Jose manages to keep its City Attorney and City Clerk expenses roughly proportional.

Generally, the allegation that nearly 100 percent of central service costs at the City of Los Angeles are unrelated to the size of the City appears to be grossly exaggerated.

Conclusion

The Executive Officer concludes that available academic and empirical evidence indicate that in the areas of public safety and general administration, the City of Los Angeles would be more likely to benefit financially from a reduction in its service area. The evidence indicates that larger cities tend to spend relatively more resources on public safety and administration than do smaller cities. This would imply that both the City of Los Angeles and the proposed Valley city would be more likely to deliver services more cheaply than to lose economies of scale by being separated into smaller cities.

This evidence is inconsistent with the City's allegations that one-third of its policing costs are unrelated to the size of the city, and that nearly all of the City's central service costs are unrelated to the size of the city.

The evidence does indicate that in the area of street maintenance and, possibly, sanitation, there are likely economies of scale. The Executive Officer encourages the parties to consider a long-term contractual relationship in such areas with clear efficiencies from a large-scale operation.

TRANSITION PERIOD

The Cortese-Knox Act provides for a period of time, typically called the “transition period,” when a county is required to continue to provide services to a newly incorporated city formed from unincorporated territory.⁷³ The purpose of the transition period is to provide continuity of services to the new territory while the new city is establishing itself. In this case, the transition period is the period of time when the new city would rely on the City of Los Angeles for services under terms specified by the Commission in its resolution making determinations.

The Cortese-Knox Act provides for a transition period extending from the effective date to the end of the fiscal year in which incorporation occurs, or longer by agreement of the parties.⁷⁴ Elsewhere the Act extends flexibility to the Commission in setting terms and conditions providing for the continuation of services and payment for those services for a longer period of time, so long as the Commission’s decision to do so is supported by substantial evidence in the record.⁷⁵

EFFECTIVE DATE

The Commission must establish an effective date for the proposed city. The effective date must occur within nine months of the election approving the special reorganization.⁷⁶

Effective dates established for other California incorporations are listed in the accompanying table. Past practice indicates that effective dates for incorporations approved in November elections are typically set for the following January 1 or February 1, but have been set as early as December 1 and as late as July 1.⁷⁷

California Incorporation Effective Dates		
City	Election	Effective Date
Goleta	Nov. 6, 2001	Feb. 1, 2002
Aliso Viejo	Mar. 6, 2001	Jul. 1, 2001
Elk Grove	Mar. 7, 2000	Jul. 1, 2000
Rancho Santa Margarita	Nov. 2, 1999	Jan. 1, 2000
Laguna Woods	Mar. 2, 1999	Mar. 24, 1999
Citrus Heights	Nov. 5, 1996	Jan. 1, 1997
Truckee	Mar. 2, 1993	Mar. 23, 1993
Windsor	Nov. 5, 1991	Jul. 1, 1992
Buellton	Nov. 5, 1991	Feb. 1, 1992
Chino Hills	Nov. 5, 1991	Dec. 1, 1991
Murrieta	Nov. 6, 1990	Jul. 1, 1991

Commission Alternatives

Although there are a number of alternatives that the Commission may consider, the parties have proposed and discussed three alternatives:

- 1) December 30, 2002: the effective date proposed by the Applicant,⁷⁸
- 2) January 1, 2003: the effective date recommended by the Subcommittee;⁷⁹ and

⁷³ Government Code section 57384.

⁷⁴ Government Code section 57384.

⁷⁵ Government Code section 56844.

⁷⁶ Government Code section 57202.

⁷⁷ Incorporation precedents include all incorporations since 1990 with both an election date and effective date listed in the LAFCO resolution.

⁷⁸ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002. The Applicant has actually proposed a January 1, 2003 effective date, but has reserved its right to present December 30, 2002 as an alternative effective date.

3) July 1, 2003: the effective date proposed by the City of Los Angeles.⁸⁰

There are three major considerations in the establishment of the effective date: revenue and cash flow issues, accounting costs, and transition period length.

The Applicant proposed a December 30, 2002 effective date to ensure that the new city meets State filing deadlines for sales tax, and subventions that will initiate these revenue flows to the new city at the earliest possible date. The Applicant also seeks to minimize the time period between the election and the new city's official start. In negotiation sessions, the Applicant expressed concern about policy decisions affecting the Valley that could be made by City of Los Angeles officials during the period between an election and the effective date.

The Subcommittee recommended a January 1, 2003 effective date in order to avoid the accounting complexities of a mid-month effective date. Although staff originally recommended a July 1, 2003 effective date, the Subcommittee preferred the January 1 effective date, in consideration of the Applicant's desire to get the new city started as soon after the election as possible.

Although earlier the City of Los Angeles had not expressed a strong preference for a particular effective date, it is now proposing a July 1, 2003 effective date. The City indicated that a January 1, 2003 effective date would present substantial difficulties for the City because it anticipates that its cash flow position at that time of year would be negative. The City uses its \$60 million reserve fund and \$200-250 million in short-term debt in the form of tax and revenue anticipation notes, to alleviate cash flow deficits early in the fiscal year. The City is concerned that the special reorganization will impact its ability to issue and reimburse short-term debt during a mid-fiscal year cash flow deficit. The City has also indicated that a July 1 effective date is appealing from its standpoint because it would reduce the length of the transition period service obligation.

Revenue and Cash Flow

Due to various lags between the assessment and collection of taxes, there are certain Valley revenue streams that may continue to be remitted to the City of Los Angeles after incorporation. The post-incorporation Valley revenue streams remitted to the City of Los Angeles vary for the different effective dates.

Any revenues generated in the Valley during the transition period and retained by the City of Los Angeles must be credited toward the transition period service costs

First Date of Revenue Flow to New City By Effective Date and Revenue Source			
	Effective Date Alternatives		
	12/30/02	1/1/03	7/1/03
Property tax	Dec-03	Dec-03	Dec-03
Utility users tax	Feb-03	Mar-03	Sep-03
Business tax	Mar-03	Mar-03	Jul-03
Sales tax	Apr-03	Apr-03	Oct-03
Vehicle license fees	Feb-03	Feb-03	Aug-03
Transient occupancy tax	Jan-03	Apr-03	Oct-03
Documentary transfer tax	Jan-03	Jan-03	Jul-03
Parking users tax	Mar-03	Mar-03	Sep-03
Note: Includes revenue flows for a partial tax collection period.			

⁷⁹ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

⁸⁰ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

pursuant to Government Code section 57384(b). However, revenues that are generated in the territory prior to the effective date would not necessarily be credited toward the transition period service costs.

With a mid-fiscal year effective date, there are two significant revenue sources—the property tax and the business license tax—that present allocation complexities. The statute does not define precisely what is meant by the timing of the revenue generation.

In the case of the property tax, which is the largest single revenue stream, the County Auditor/Controller will remit the Valley portion of the April 2003 property tax payment to the City of Los Angeles. At issue is the portion of property tax revenues generated in the Valley—about \$98 million—that would have been used to cover Valley service delivery costs in the second half of the year if special reorganization had not occurred. Under the current City boundaries, the City uses a portion of the receipts to finance service costs in the earlier portion of the fiscal year, and another portion to pay for service delivery costs in the later portion of the year.⁸¹ Clearly, this portion of the property tax should be credited toward the City's costs of providing services to the Valley during the transition period. With a mid-fiscal year effective date, it is recommended that the Commission set forth terms and conditions requiring the City of Los Angeles to credit the April 2003 property tax payment to transition period costs.

With a July 1 effective date, this property tax cash flow issue would not require any special terms and conditions because the Valley would receive all property tax revenue generated after July 1 so long as the Executive Officer files a statement of boundary change with the Board of Equalization by December 1, 2002.⁸²

The business license tax is another revenue stream with allocation complexities that may be considered in establishing the effective date. At issue in the case of the Valley is a \$99 million revenue stream. The business tax is unique in that it is paid for the privilege of conducting business in the City during the calendar year, with most payments received in the month of March. The tax is paid by businesses for the privilege of conducting business in the City during the proceeding calendar year. For budget purposes, however, the City of Los Angeles allocates the revenue to the fiscal year underway at the time of collection.

With a January 1 effective date, it is unclear as to which party should receive all of the business license revenues for the fiscal year underway. A City of Los Angeles consultant has argued that the City of Los Angeles would receive all of the fiscal year 2002-03 business tax revenues if the new city incorporates on January 1.⁸³ With a December 16 effective date⁸⁴ the consultant contends that the Valley would receive virtually all of the fiscal year 2002-03 business tax revenues attributable to the Valley, including those that should fund services delivered prior to incorporation. With a July 1 effective date, the consultant contends that City of Los Angeles would receive all of the revenues

⁸¹ The City finances expenditures in the earlier portion of the fiscal year by borrowing. The City borrows from its special funds and from bondholders through tax and revenue anticipation notes. The City is required to reimburse both the special funds and the bondholders with revenues received during the same fiscal year. For budgetary purposes, the bond proceeds finance the City's pension fund contributions. The CFA assumed that the Valley would share in repaying the short-term debt.

⁸² Government Code sections 54900-54902.

⁸³ R.J. Rudden Associates. *Report to the City of Los Angeles Office of the City Administrative Officer Regarding Cash Flow Evaluation of the Valley Area Secession Proposal*, November 20, 2001.

⁸⁴ The effective date originally proposed by the Applicant. Valley VOTE, *Recommended Terms and Conditions*, December 21, 2001. A December 30, 2002 effective date would have the same effect.

attributable to the Valley for the privilege of conducting business in the Valley during the 2003 calendar year.

To the extent practicable, these revenues should be allocated between the parties, depending on the effective date, through terms and conditions imposed by the Commission. If the revenue is apportioned based on the fiscal year, with a December 30 and a January 1 effective date, one-half of the business tax revenues for fiscal year 2002-03 should be allocated to the new city. With an effective date of July 1, none of the fiscal year 2002-03 business tax revenues should be allocated to the new Valley city.

Accounting Costs

As the City's fiscal year ends on June 30 of each year, the December 30 and January 1 alternatives would fall in the middle of the fiscal year. The City of Los Angeles has indicated in the negotiation sessions that a mid-fiscal year effective date would require the City to produce two year-end financial statements during the 2002-03 fiscal year. Further, the City has indicated that the new Valley city should absorb the costs of producing the mid-fiscal year financial statements. The City has not provided staff with an estimate for the likely costs associated with producing audited financial statements for a mid-fiscal year effective date. The State Controller, however, did estimate that these costs—combined with redistricting and bond validation costs—would be about \$566,500.⁸⁵

Executive Officer's Recommendation

Although the Subcommittee recommended that the Commission adopt a January 1, 2003 effective date, the Executive Officer continues to recommend a July 1, 2003 effective date in order to avoid the accounting and cash flow complexities inherent in a mid-fiscal year effective date. Should the Commission adopt a January 1, 2003 effective date, it is recommended that the Commission require that one-half of the fiscal year 2002-03 property and business license tax receipts generated in the Valley are allocated to each party. Further, it is recommended that the Commission accommodate the January 1 effective date by requiring the Valley to reimburse the City of Los Angeles for a portion of the City's tax and revenue anticipation notes outstanding as of the effective date.

A December 30 effective date is not recommended.

TRANSITION PERIOD LENGTH

In a typical incorporation, the transition period terminates at the end of the fiscal year in which the city incorporates.⁸⁶ With a January 1, 2003 effective date, the transition period would typically end on June 30 2003. Legal Counsel has advised, however, that Commission may determine that the circumstances warrant the imposition of a transition period of a different length.⁸⁷ As set forth below, the complexities inherent in the reorganization of a city the size of Los Angeles, warrant a longer transition period than the typical incorporation.

The City of Los Angeles has proposed that the transition period cover the remainder of the fiscal year underway on the effective date, and last no longer than one year.⁸⁸ With the City's preferred

⁸⁵ California State Controller, *California State Controller's Review of the Proposed San Fernando Valley Special Reorganization Comprehensive Fiscal Analysis*, April 2002.

⁸⁶ Government Code section 57384.

⁸⁷ County of Los Angeles, Office of the County Counsel, *The Transition Period*, November 21, 2001.

⁸⁸ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

effective date of July 1, 2003, the transition period would end one year later, on June 30, 2004. The City has expressed concern over a lengthy period of service obligation without contracts or reimbursement guarantees.

The Applicant has proposed alternative transition period lengths, beginning with the effective date⁸⁹ and ending on either June 30, 2004 or June 30, 2005.⁹⁰ The Applicant's preference is for the longer transition period in order to accommodate what the Applicant expects to be lengthy negotiations over service contracts.

The Subcommittee recommended a transition period end-date of June 30, 2004. With the recommended effective date of January 1, 2003, the transition period would be 18 months. The recommendation of the Subcommittee reflects an attempt to accommodate the competing interests of both parties.⁹¹

Analysis

The Applicant's proposal seeks to provide the new city leaders with maximum flexibility regarding a transition timetable. The Applicant's proposal for a lengthy transition period, however, would leave the City with a tenuous service obligation, and make it difficult for the City to begin adjusting to the reorganization. A shorter transition period would address some of the City's concerns and provide the parties with an incentive to move quickly toward a contractual arrangement. If the transition period is too short, however, the inability of the parties to assess their service needs and negotiate fair contracts could lead to service interruptions.

Executive Officer's Recommendation

Consistent with the Subcommittee's recommendation, the transition period should end on June 30, 2004, coinciding with the end of the City of Los Angeles fiscal year. This date is recommended as a compromise between the competing interests of the parties with respect to the length of the transition period. If the Commission sets January 1, 2003 as the effective date, the parties will have approximately 19 months to negotiate service contracts, and limits the time in which the City of Los Angeles is required to provide services without a contract to 18 months. If the Commission sets July 1, 2003 as the effective date, the parties still have approximately 19 months to negotiate service contracts (although the elected Valley city council could not officially act until the effective date), and the transition period service obligation of the City of Los Angeles would be limited to one year.

TRANSITION PERIOD SERVICE DISCONTINUATION NOTICE

The purpose of the transition period is to ensure that public services are delivered while the new city is establishing itself. Although Government Code section 57384 provides that the new city council may request the discontinuance of transition period service at its sole option at any time during the transition period, the Commission may impose terms and conditions modifying that provision, such as requiring a reasonable notification period to protect the City of Los Angeles from fiscal harm.⁹²

⁸⁹ Either December 30, 2002 or January 1, 2003. Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002.

⁹⁰ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002.

⁹¹ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

⁹² County of Los Angeles, Office of the County Counsel, *The Transition Period*, November 21, 2001; see also Government Code section 56844.

The Subcommittee recommended a six-month notification requirement. During the notification period, the new city would be required to continue to pay for transition period service; however, the transition period for a particular service would automatically be terminated on the effective date of a service contract between the parties.⁹³ The City of Los Angeles has proposed that it be entitled to reduce or terminate service in its discretion, if the new city does not timely reimburse the City for transition period service and that the county be required to provide service if the City cannot or does not provide transition service.⁹⁴ The City of Los Angeles has not offered to provide advanced notice of its actions in a set time frame. The Applicant is amenable to the Subcommittee's recommended six-month notification period, but as an alternative has proposed that the new city's council may terminate the transition period service arrangement with three months' notice for regular services and six months' notice for public safety and public works services.⁹⁵

Executive Officer's Recommendation

Consistent with the Subcommittee's recommendation, the Commission should impose a six-month notification requirement upon the new city for cancellation of transition period service. During the notification period, the new city should be required to continue to pay for transition period services. It is recommended, however, that the transition period for a particular service automatically be terminated on the effective date of a service contract between the parties. This term will avoid the possibility of any conflict between application of the terms and conditions for the transition period and the obligations of the parties pursuant to contract, and will encourage the parties to enter into more permanent contractual relationships as soon as possible.

The Executive Officer does not recommend imposing a term and condition requiring the County of Los Angeles to assume the transition period service obligations of the City of Los Angeles as proposed by the City of Los Angeles. To do so would only serve as a disincentive to the parties to resolve service-related issues between themselves, and places an unreasonable burden upon the County, given the relatively short time period involved and the financial and physical impracticality of requiring the County to provide municipal services on a large scale without the necessary infrastructure and personnel resources available to it.

SERVICE LEVELS

Government Code section 57384 also provides that during the typical transition period, "all services furnished to the area prior to incorporation" continue to be furnished. In five of the last seven California incorporations, the LAFCO resolution has required that the county maintain pre-incorporation service levels during the transition period.

The Applicant has requested that the City of Los Angeles continue to provide the full range of existing municipal services during the transition period at existing service levels in a manner identical to those services provided during the fiscal year prior to the effective date.⁹⁶ The City of Los Angeles

⁹³ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

⁹⁴ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

⁹⁵ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002.

⁹⁶ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002.

has proposed that it retain the right to adjust service levels in the event of emergency, natural disaster or changed economic conditions.⁹⁷

The Subcommittee recommended that the Commission incorporate both proposals in the terms and conditions.⁹⁸

Executive Officer's Recommendation

Consistent with the Subcommittee's recommendation, the Commission should require the City of Los Angeles to maintain current service levels in the new city except as may be required for management of emergencies or revenue shortfalls. The provision should also authorize the City of Los Angeles to reduce service levels in a proportional manner in the event that the Valley's actual transition period service payments fall short of baseline costs.

TRANSITION SERVICE SCOPE

The transition service scope is a definition of the types of services that the new city anticipates needing during the transition period. The Applicant has proposed that the service scope exclude services currently provided by the City of Los Angeles Mayor, City Administrative Office, Treasurer and Department of Neighborhood Empowerment.⁹⁹ The City of Los Angeles has proposed that it control the scope of services provided to the new city during the transition period, except as otherwise mutually agreed to by the parties through service contracts.¹⁰⁰

Government Code section 57384(a) acknowledges that the city council of a newly incorporated city may want to discontinue transition period services prior to the end of the transition period, presumably when the new city is capable of providing those services or determines that particular services are no longer needed. Generally speaking, service scope determinations should be left to the new city council. If prior recommendations are followed, the new city council could discontinue services provided by the City of Los Angeles after providing six month's notice. With this safeguard, it is less likely that service interruptions will arise, and the new city will still be afforded some flexibility in managing its service delivery and service costs. However, should the Commission consider excluding certain services it is recommended that the Commission only consider excluding from the transition period service scope those departments that the Applicant expressly identifies, and that the Commission determines are not essential to the health, safety and welfare of the residents and general public.

The Subcommittee, based upon staff recommendation, had recommended that the Commission incorporate meaningful components of the Gonzalves rule¹⁰¹ in its resolution, particularly with

⁹⁷ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

⁹⁸ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

⁹⁹ Valley VOTE, *Recommended Terms and Conditions*, December 21, 2001.

¹⁰⁰ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

¹⁰¹ Government Code section 51350. This statute prohibits counties from billing contract cities for countywide services and for general county overhead costs that the county would incur regardless of whether it provides contract service to cities. These excluded costs relate to the functions of the Board of Supervisors and the department executives. The preceding requirement, also known as the Gonsalves rule, does not apply to cities providing contract service and is not directly applicable to this special reorganization.

respect to the mayor and city council.¹⁰² Specifically, this would mean that the new city would not be required to pay for the costs associated with City of Los Angeles elected officials and department heads, along with their chiefs of staff and executive secretaries. Legal Counsel has since advised that pursuant to Government Code section 57384, the transition period service provider is typically reimbursed for the “total direct and indirect expenses ... of providing services.” Reconciling this provision with the provision that permits the new city council to discontinue transition period services, Legal Counsel has advised that it would be preferable to limit the scope of services to be provided rather than the cost of services actually provided.

Executive Officer’s Recommendation

The Commission should exclude from the transition period service scope any services from the Department of Neighborhood Empowerment as the purpose of this department is to facilitate the creation of neighborhood councils for interaction with the Los Angeles City Council. During the transition period, the Valley’s newly elected city council would represent the new Valley city in dealings with the City of Los Angeles. The CFA has excluded costs associated with this department from transition period service costs. Were such costs included, they would add approximately \$600,000 annually to the new city’s transition period service costs.

PAYMENT CALCULATION

The new city is required to reimburse the old jurisdiction for the cost of transition period services at “net cost.” The statute directs the Commission to compute the net cost, which must include direct and indirect costs that were funded by general revenues of the old jurisdiction during the prior fiscal year. Any revenues generated in the territory during the transition period that are retained by the old jurisdiction must be deducted from the net cost.

The net cost approach as defined in Government Code section 57384(b) does not include service costs and overhead that the City of Los Angeles finances from federal grants, user fees and special purpose funds. As discussed earlier, Government Code section 57302 authorizes the Commission to develop alternative conditions that deviate from general statutory requirements such as this net cost provision.

Precedent

In most cases, the LAFCO requires the new city to reimburse the old jurisdiction for the net cost of providing transition services. In the case of Goleta and Rancho Santa Margarita, the respective counties waived all or some of the cost of transition services.

Proposals

The City of Los Angeles has proposed that the new city reimburse all costs of continued service, including, without limitation, direct costs (e.g. labor costs), overhead, capital costs, related liability claims, administration costs, and costs not fully reimbursed through fees and charges.¹⁰³

The Applicant has proposed that the payment exclude costs associated with services provided by the City of Los Angeles Mayor, City Administrative Office, Treasurer and Department of Neighborhood Empowerment. In addition, the Applicant has requested that the City of Los

¹⁰² *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

¹⁰³ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

Angeles be directed to provide the new city a \$1 million start-up advance as a part of the transition period costs.¹⁰⁴

Analysis

The statutory approach to defining net cost does not require the new city to reimburse any costs that the old jurisdiction formerly financed through special purpose funds and dedicated grants. To the extent that the old jurisdiction continues to receive these funding sources after a reorganization, the statutory approach is sensible. However, to the extent that special purpose funds (e.g., gas tax) are directed to the new city, this approach would require the old jurisdiction to subsidize some of the transition costs.

As discussed in the previous section, the Subcommittee recommendation was to exclude overhead costs relating to the elected officials and department heads, as well as their chiefs of staff and executive secretaries, however, Legal Counsel has recently advised against that approach. As such, it is not recommended that the Commission deviate from the formula set forth in Government Code section 57384(b), except as outlined above.

Executive Officer's Recommendations

The Commission should require the new city to reimburse the City of Los Angeles for all direct and indirect expense of providing services in accordance with Government Code section 56384(b), except that the definition of "net costs" should not exclude costs to be paid from special funds that have been transferred to the new city. Transition period service costs should be limited to those direct and indirect costs generated on or after the date of incorporation; the City of Los Angeles should not charge the new city for operating costs incurred prior to the effective date, regardless of when actual invoicing or payment occurs.

It is not recommended that the Commission require the City of Los Angeles to provide the new city with the \$1 million startup advance proposed by the Applicant. While acknowledging that the Valley faces startup costs prior to its expected receipt of revenues, the City of Los Angeles is not the appropriate lender. Private lending institutions would be the most likely sources of start-up funds for the new city. The new city may rely on revenue anticipation notes or bridge loans to accommodate cash flow deficiencies.

TRANSITION SERVICE REIMBURSEMENT

The City of Los Angeles and the Applicant have agreed in principle to a timely reimbursement schedule on a monthly basis for transition period services. Further, both parties have agreed in principle to the reimbursement mechanism occurring in the form of a share of revenues guaranteed to the City of Los Angeles.

¹⁰⁴ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002.

Cash Flow Considerations

While the parties agree in principle, there remain differences of opinion regarding certain cash flow elements of the reimbursement schedule and a third party fiscal agent. The Applicant has proposed that the Valley city would reimburse the City for transition costs initially by transferring 95 percent of revenues remitted to the fiscal agent or, in other words, about 85 percent of the new city's general fund revenues to the City.¹¹² The City has proposed that the Valley pay invoiced estimates of the City's anticipated costs for a particular month by the tenth of the month or, in other words, prior to the costs being incurred by the City. Furthermore, the City has indicated disagreement with the Subcommittee's decision to credit the new city with one-half of the fiscal year 2002-03 property taxes, despite the fact that these revenues would clearly finance Valley services if special reorganization were not to occur.¹¹³

A consideration in structuring the transition period reimbursement relates to revenues from Valley residents and businesses that would be received and could be retained by the City of Los Angeles after Valley incorporation.

The most significant cash flow issues relate to appropriate crediting of fiscal year 2002-03 property tax and business tax revenues. The property tax revenues will flow to the City of Los Angeles in December 2002 and April 2003. If the proposed special reorganization did not occur, the City would likely use these funds to finance Valley services. While the Auditor/Controller will remit these funds to the City of Los Angeles, it would be appropriate for the Commission to require that the City of Los Angeles credit, consistent with Government Code section 57384, one-half of the fiscal year 2002-03 property tax receipts generated in the Valley toward the Valley city's transition period service costs in the event the Commission adopts a January 1, 2003 effective date.

Similarly, the business license tax presents a potential cash flow problem. Most Valley business license taxes will be paid in March 2003 for the privilege of doing business in the Valley during the 2003 calendar year.¹¹⁴ As with the property taxes, the Commission should require that the City of Los Angeles credit one-half of the fiscal year 2002-03 business license tax receipts generated in the Valley toward the Valley city's transition period service costs in the event the Commission adopts a January 1, 2003 effective date.

The sales tax presents yet a third cash flow problem. The State Board of Equalization is not expected to remit sales tax payments for taxable activity that occurs in the San Fernando Valley during the first quarter following the effective date to the Valley city. The Valley portion of the sales tax payment for taxable activity that occurs after the effective date will most likely be remitted to the City of Los Angeles. The Commission should require that the City of Los Angeles credit 45.04 percent (the estimated share of City sales taxes generated in the Valley) of sales tax receipts for the

¹¹² Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002.

¹¹³ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

¹¹⁴ Annual business license fees compose the vast majority of revenues, and are received in February and March of the calendar year.

first quarter following the effective date toward the city's transition period service costs in the event the Board of Equalization includes the Valley portion in its payment to the City of Los Angeles.

Precedent

The Cortese-Knox Act provides for a reimbursement period of up to five years for transition period costs. With the county's consent, the reimbursement period may be extended.¹¹⁵ In the case of Citrus Heights, the new city council defaulted on transition service reimbursement, the county sued and the parties eventually settled for a lesser amount. In subsequent incorporations, the parties have been cautious about securing both the transition service payment and the mitigation payment on revenue streams that would otherwise flow to the new city. In recent incorporations, LAFCOs have required that a portion of the new city's property tax and/or sales tax revenue streams be dedicated to repayment of transition costs.

Government Code section 57384 requires that the county credit to the payment of transition costs any revenues that it retains that were generated in the incorporated territory during the transition period. This typically only extends to the end of the fiscal year, wherein because of the Board of Equalization filing requirements, the new city cannot collect its portion of the property tax. For the subsequent fiscal year, it is relatively simple to use the property tax as a payment guarantee with relevant terms in the LAFCO resolution and a written agreement between the parties to transfer the taxes. The county's Auditor-Controller would administer the property tax revenue diversion.

The sales tax revenue for the first quarter after incorporation will flow to the old jurisdiction if the effective date is on or after the first day of the calendar quarter. In the case of Elk Grove and Citrus Heights, the county credited this revenue toward transition period service. In the case of Aliso Viejo, the sales tax increment¹¹⁶ was dedicated to repayment of transition period service costs.

There exists a barrier in securing sales tax revenue streams after the first quarter. Although Fresno and Alameda counties do have sales tax sharing agreements in place that divert a portion of their cities' share of sales tax to the counties, these agreements were approved by the respective legislative bodies with a two-thirds vote, as required by the State Constitution.¹¹⁷

Fiscal Agent

The Commission faces challenges in guaranteeing revenues to the City of Los Angeles for purposes of covering transition costs. The resolution making determinations can, and typically does, require that the new city adopt any revenue neutrality or tax-sharing agreements agreed to by the applicant and the transferring agency. At this point, however, it appears that the City of Los Angeles and the Applicant may not complete the negotiation of a revenue neutrality or tax sharing agreement in time for inclusion in the resolution.

Both parties agree in principal that the municipal revenues of the new city should flow to a third party fiscal agent, and each has stated a preference for the Los Angeles County Auditor-Controller serving in that capacity.

The Applicant has proposed that all municipal revenues during the transition period should be deposited with the County Auditor-Controller and held in a Transition Trust Account, and then disbursed to the parties. The Applicant proposes that 95 percent of its property tax, sales tax, utility users tax, business tax, state motor vehicle license fees and transient occupancy tax, plus all special

¹¹⁵ Government Code section 57384(b).

¹¹⁶ The post-incorporation growth in revenues.

¹¹⁷ Cal. Const., Art. XIII, § 29.

purpose revenues and program revenues be dedicated to payment of transition period service costs. The Applicant contends that the new city should be entitled to collect or receive any taxes to which it is entitled and be required to remit those revenues to the fiscal agent. The City of Los Angeles should also be required to remit to the fiscal agent those revenues it collects on behalf of the new city for crediting to the Valley city's transition period payment.¹¹⁸

The City of Los Angeles has proposed that the new city's property tax, business tax and utility users taxes be remitted to and retained by the County Auditor-Controller as the third-party fiscal agent. The City of Los Angeles proposes that, during the transition period, its claims for payment from these revenues be given first priority, and that after the transition period, it continue to have first priority over the new city's property taxes to secure payment of the new city's portion of the outstanding debt, workers' compensation and contingent liabilities. The City has also requested that the Commission require the new city to pay by the tenth of each month for the estimated cost of services anticipated for the month.¹¹⁹

The fiscal agent's work volume is expected to be substantial during the transition period; the work is expected to keep at least one seasoned accountant occupied full-time, related costs have been estimated at a minimum of \$250,000 annually. The Valley city would have to approve a contract with, and compensate, the fiscal agent. Although both parties prefer that the Auditor-Controller serve as fiscal agent, a private sector bank could serve in this capacity as well. If the Auditor-Controller does not serve as fiscal agent, the Commission should require that the Valley city retain a fiscal agent that is acceptable to the City of Los Angeles.

The Subcommittee recommended that the Commission require both the new city and the City of Los Angeles remit all revenues collected by or on behalf of the new city to a third party fiscal agent throughout the transition period, and that all property tax revenues collected on behalf of the new city should be remitted to a third party fiscal agent until all bonded indebtedness existing as of the effective date is retired or the parties agree otherwise. It also recommended that the new city should reimburse the third party fiscal agent for the costs of collecting and remitting tax revenues, and that the third party fiscal agent should be acceptable to both the new city and the City of Los Angeles. Finally, the Subcommittee recommended that the third party fiscal agent make payments to the City of Los Angeles on a monthly basis for transition period service costs and liabilities, fiscal mitigation, and outstanding debt.¹²⁰

Regarding instructions for the priority of payments, the Executive Officer recommends that the treatment of expenditures be compatible with the treatment of revenues. Given that revenues generated in the Valley prior to incorporation are not being distributed to the new city, neither should expenditures incurred prior to incorporation be allocated to the new city. The City's proposal that the Valley essentially advance transition period service costs before such costs have been incurred would impose cash flow asymmetries on the new city, essentially requiring payment prior to revenue receipt. The City's transition period service reimbursement proposal is impractical.

¹¹⁸ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002.

¹¹⁹ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

¹²⁰ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

Further, the City has proposed that the new city's obligations to the City of Los Angeles—debt payments, fiscal mitigation and transition period service costs—be prioritized above any expenditures for Valley personnel or facilities.

Given the statutory imperative that bondholders not be harmed by special reorganization conditions, the new city's debt payments to the City of Los Angeles should be granted first order of payment priority. Although debt payments should be granted first order of priority, the new city should not be required to make such debt payments to the City until shortly before the City must make the relevant debt service payment. The new city should not be required to make payments for City of Los Angeles costs before they have materialized, in which case the City would be collecting interest revenue otherwise due to the new city.

The second order of priority for the fiscal agent's payment should be reimbursement of debt incurred by the new city for the payment of transition period service costs. The new city may borrow funds during the transition period either from a bank or through tax and revenue anticipation notes to finance transition period service costs. With prudent financial management, the new city would likely structure debt repayment terms to spread these costs out over a lengthy time period so that the new city can keep up with its transition period service payments and fiscal mitigation payments. However, the new city would have difficulty acquiring such a loan if its repayment were not prioritized in the accounts payable scheme.

So long as the parties do not negotiate a tax-sharing agreement to accommodate the fiscal mitigation payment, the third order of priority for the fiscal agent's payment should be the fiscal mitigation payment. Without a tax-sharing agreement, the fiscal mitigation payment obligation is a fixed dollar amount and must be budgeted with a higher priority level than the more flexible payments for transition period service costs and the new city's operating costs.

The fourth priority for payment should be the transition period service reimbursement to the City of Los Angeles. Although the statute permits the Commission to treat payment of transition period service costs as a loan to be repaid over a five-year period,¹²¹ the City of Los Angeles has indicated that the volume of transition period service costs would make such a loan impractical. Elsewhere, it is recommended that the City of Los Angeles not be required to extend a loan to the new city for transition period service reimbursement. Furthermore, it is recommended that the City of Los Angeles be authorized to reduce transition period services in the event of revenue shortfalls in order to accord both parties budgeting flexibility.

The final priority for payment should be the new city's operating costs. The CFA has estimated that the new city would require about \$2.4 million to staff its basic functions in the first partial fiscal year.¹²² By according a lower priority to the new city's operating costs, it is anticipated that the new city will engage in cautious and prudent budgeting of its direct operating costs.

Finally, it is recommended that the Commission accord the parties flexibility to make future agreements regarding payment priorities during the transition period.

Executive Officer's Recommendations

Consistent with the Subcommittee's recommendations, the Commission should require that all revenues generated in the Valley during the transition period be remitted to the third party fiscal

¹²¹ Government Code section 57384.

¹²² Public Financial Management, Inc., *San Fernando Valley Proposal for Special Reorganization Comprehensive Fiscal Analysis*, January 9, 2002.

agent, that property tax revenues generated in the Valley be remitted to the third party fiscal agent until the Valley has paid off its share of outstanding debt, and that the third party fiscal agent be responsible for allocating the revenues appropriately to the City of Los Angeles and the new city. The Commission should require that the third party fiscal agent be compensated by the new city for the costs of collecting and remitting revenues, and that the agent be acceptable to both parties.¹²³

The Executive Officer recommends, however, that “revenues” be defined to exclude direct charges and fees for services, including Department of Water and Power (“DWP”) charges for water and electricity (which are retained by the DWP for the provision of those utility services), Public Works, Bureau of Sanitation charges for sanitation equipment, fees related to the issuance of permits and licenses, other similar administrative fees and charges, and fines. To the extent generated in the Valley through the provision of transition period services, those amounts should be directly credited by the City of Los Angeles to the transition period service payment or the new city’s portion of debt repayment, as appropriate, and not remitted to the fiscal agent.

The Executive Officer also recommends that the fiscal agent determine, on an annual basis, the amount of property tax revenue that must be remitted to pay the Valley’s share of the City’s outstanding debt payments for that year, and that the remainder of the property tax revenue be retained by the new city.

The Executive Officer further recommends that the Commission only require the new city to advance funds to the City of Los Angeles for purposes of debt payments, and that the new city be authorized to deduct appropriate interest expense from any advanced funds. For any late payment made by the new city, the fiscal agent should add interest at a rate equal to the City’s general pool investment yield to the disbursement made to the City.

Regarding the priority of payments to be made by the new city and its fiscal agent, the priority ranking should be debt payments to the City of Los Angeles, debt payments to the new city’s creditors, fiscal mitigation payment, transition period service reimbursement, and lastly the new city’s direct operating costs.

GRANT FUNDS

The issue of the disposition of grant funding during the transition period was not analyzed for or addressed by the Subcommittee. Both the Applicant and the City of Los Angeles, however, have proposed terms and conditions on this issue.

The City of Los Angeles received approximately \$441 million in federal and state grant funds in fiscal year 2001-02 for job training, nutrition, poverty, anti-crime and other social programs.¹²⁴ In incomplete documentation of these grant funds, the City indicated that at least 69 percent of the funds were entitlement grants that the City receives on the basis of a funding formula. The remaining grants are competitive grants, for which the City has applied and competed with other municipalities.

Most of the grant funds are essentially pass-through funds which the City distributes to non-profit service organizations, some of which are located in the San Fernando Valley. With the exception of administrative fees and certain police services included in certain grant funds, most of the grant funds are not included in the City’s budget and have not been allocated in the Comprehensive Fiscal

¹²³ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

¹²⁴ City of Los Angeles. *Budget, Fiscal Year 2001-02, Modified and Adopted by the Council on June 6, 2001*.

Analysis. The CFA did allocate the \$13.8 million in budgeted grant funds to the proposed Valley city.¹²⁵ Given that these budgeted grant funds are related to entitlement grants, it is sensible to allocate the funds to the new city because the new city will eventually receive the funds directly from the granting agency.

In many cases, the new city will not directly receive grant funds until late in the transition period. The formula-driven grants rely on statistical data, and allocations are determined on an annual funding cycle. In the case of the U.S. Housing and Urban Development (HUD) entitlement grants, the federal agency must compile data on San Fernando Valley population, poverty and housing conditions in the fall of 2003 for entitlement grants funds that are distributed in April 2004. U.S. Department of Justice would require three past years of San Fernando Valley crime statistics before allocating law enforcement related grants directly to the Valley. The U.S. Department of Labor would require San Fernando Valley data on mass layoffs, unemployment, and dislocated workers for purposes of allocating Workforce Investment Act funds directly to the Valley. The California Department on Aging would require an updated agreement between the City and the County on the portion of the population aged 60 and over in each area, before allocating the Valley share of funds to the County Area Agency on Aging.

For most of the transition period, the City of Los Angeles will continue to receive grant funds based on its size prior to special reorganization. Thus, the resolution making determinations should address the disposition of grant funds during the transition period.

The City of Los Angeles has proposed the following term relating to grants:

If the City has been awarded state, county or federal grant funds prior to the effective date of incorporation that must be used in the detached territory, the City will facilitate an amendment to its grant agreement with the granting agency, so that the moneys can be deleted from the City's grant agreement and the new city may enter into a direct grant agreement with the granting agency for use of those funds. The new city shall not be entitled to any other division or allocation of grant funds, and shall not be included within future City applications for, or allocation of, grant funds. Notwithstanding the above, any grant funds that may legally be expended within the boundaries of the City not including the territory encompassed in the new city, may, at the option of the City be used by the City within its boundaries, or the City may seek to amend its grant agreement to delete those funds as described earlier in this paragraph.¹²⁶

The Applicant has proposed the following terms relating to grants:

Grant Funding previously appropriated for projects in the territory of the City shall be transferred. The City of Los Angeles shall facilitate an amendment to its grant agreements with granting agencies so that grant funding can be deleted from the City of Los Angeles' grant agreements and granting agencies may enter into direct grant agreements with the Valley City for use of those grant funds.

¹²⁵ Public Financial Management, Inc., *San Fernando Valley Proposal for Special Reorganization Supplemental Report*, February 15, 2002.

¹²⁶ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

Home, McKinney and Community Development Block Grant (CDBG). The Valley City will continue to participate in all such programs.¹²⁷

Executive Officer's Recommendation

The Commission should require the City of Los Angeles to either distribute the Valley's share of budgeted grant funds to the Valley or to extend a revenue credit to the Valley for its share of grant funds that the City retains, unless and until the funds are distributed directly to the new city or to the new agency distributing Valley grant funds. In lieu of a specific re-allocation of grant funding by the granting agency or other legal requirements, the Commission should require that grant funds be distributed in the manner set forth below.

For purposes of the HUD grants—Community Development Block Grant, HOME Investment Partnership Act, and Emergency Shelter Grant—the allocation for the San Fernando Valley should be based on the percent of the City low and moderate income households that reside in the Valley. The reason for this simplification is that 70 percent of the HUD funds are required to be used for the benefit of the low and moderate income households. The 1990 Census data provided by HUD indicate that 26 percent of the City's low and moderate income households reside in the Valley. By implication, that 26 percent of the City's HUD entitlement grants should be allocated to the Valley.

In the case of the police-related grants—Local Law Enforcement Block Grant and Juvenile Accountability Incentive Block Grant, the City should be required to allocate a portion of grant funds to the Valley based on population, or on the percent of city-wide Part I crimes that are committed in the Valley. The City of Los Angeles should be required to share its crime data with the Valley, and the Valley should bear the cost of producing any data, such as Valley-specific crime data, needed to allocate the grant funds.

In the case of the Supplemental Law Enforcement Services Fund, Government Code section 30061-5 explicitly addresses how the funds should be distributed when a new city incorporates. In the case of the Older Americans Act grants like the Senior Citizen Nutrition Program, the City should be required to allocate a portion of the grant funds to the Valley based on population aged 60 or more.

¹²⁷ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002.

TRANSITION COSTS

COST OF ELECTIONS AND REDISTRICTING

Pursuant to Government Code section 57150(e), the City of Los Angeles and the Valley are obligated to share the costs of the election on the question of special reorganization and selection of Valley city council members in proportion to the assessed value in those respective territories, if the Valley Special Reorganization is approved. If the voters reject special reorganization, the County of Los Angeles is obligated to bear these costs.

The Commission should also require that the City of Los Angeles, the Valley and any other cities formed pursuant to these special reorganization proceedings be obligated to pay in proportionate shares based on assessed value the costs of redistricting the City of Los Angeles.

ACCOUNTING COSTS

The State Controller's Office found that the City's proposal to conduct revenue collection and separation and validation action for bond issuance on special taxes was reasonable, and that reasonable expenses for these transition costs along with redistricting related costs would be \$566,500.

The Commission should require that the Valley city and any other cities formed pursuant to these special reorganization proceedings pay in proportionate (assessed property value) shares the costs of producing City of Los Angeles financial statements effective December 31, 2002 (if the effective date is not July 1), establishing revenue collection procedures and validating pre-existing bonds.

OTHER TRANSITION COSTS

The City has also requested that the Valley reimburse the City for a number of additional transition costs including the update of City maps, preparation of a transition plan, and processing quitclaims on easements for streets.

The City of Los Angeles Information Technology department has estimated that it needs to conduct a \$30 million assessment of the information systems. The manager of this department proposes that in order to administer a contract with the Valley city, the department would have to conduct a comprehensive assessment involving 147 person-years in total. The basis for this proposed transition cost is that it cost the City \$109 million to conduct its assessment of the City's information technology environment in preparation for January 1, 2000 (Y2K). The City proposes to negotiate a separate contract with the new city for each of 147 systems. These "critical" systems include the scheduling system in the mayor's office, a system for printing mailing labels, and a system for tracking property assessments in a Harbor area cemetery.¹²⁸

In its review of the CFA, the State Controller's Office dismissed the City's proposed one-time contract administration costs as unreasonable. "The City provided no justification to support which each critical system would require a separate contract or explain why each contract would require a person-year to negotiate, except to state that it was based upon past experience."¹²⁹

This issue raises concerns about the City of Los Angeles ability and incentives to contain transition costs to reasonable and necessary transition expenses.

¹²⁸ California State Controller, *California State Controller's Review of the Proposed San Fernando Valley Special Reorganization Comprehensive Fiscal Analysis*, April 2002, page 9.

¹²⁹ Id.

Executive Officer's Recommendation

The Commission should require parties to pay for the costs of elections, redistricting the City of Los Angeles and the enumerated accounting costs as set forth above. Further, the Executive Officer recommends that the City of Los Angeles to consult with the new city prior to incurring any of these enumerated transition costs in excess of \$100,000.

FISCAL MITIGATION

BACKGROUND

Government Code section 56845 prohibits the Commission from approving a proposal that includes an incorporation unless it finds that the following are substantially equal:

- (c) revenues currently received by the agency transferring the affected territory which would accrue to the local agency receiving the affected territory; and
- (d) expenditures currently made by the local agency transferring the affected territory for those services which will be assumed by the local agency receiving the affected territory.

If these amounts are not substantially equal, the Commission may only approve a proposal if it finds that: (1) the county and all other subject agencies agree, or (2) the negative fiscal effect of the incorporation is adequately mitigated by tax sharing agreements, lump sum payments, payments over a fixed period of time, or other terms and conditions imposed by the Commission.¹³⁰

The CFA contains an analysis of the “revenue neutrality” test set forth above, and concludes that the Valley Special Reorganization would not meet the revenue neutrality test because the Valley currently generates more in revenue than the City of Los Angeles currently expends in providing the services that would transfer to the proposed Valley city. As such the Commission can only approve the proposed Valley Special Reorganization with the agreement of the county and the City of Los Angeles, or if it finds that the negative fiscal effect of the proposal has been adequately mitigated.

Seven California incorporations have occurred since this “revenue neutrality” test was added by the Legislature in 1992. In the first two cases of Truckee and Citrus Heights, the relevant LAFCO placed related mitigation measures in the terms and conditions, but in neither case were the mitigation measures followed after incorporation. Subsequently, it has become standard practice for the parties to negotiate mitigation terms and for these mutually agreeable terms to be attached to the resolution making determinations, and imposed as a term and condition of the incorporation.

The City of Los Angeles and the Applicant have indicated that they will negotiate such an agreement; however, no such agreement has yet been negotiated. If the parties negotiate an agreement, the Commission must make a finding that the agreement adequately mitigates the negative fiscal effect of the proposed Valley Special Reorganization. In the event that the parties do not negotiate such an agreement, the Commission must develop terms that adequately mitigate the negative fiscal effect before it could approve the special reorganization.

MITIGATION PAYMENT

The Executive Officer recommends that the mitigation payment should be \$55.8 million. For further discussion of the establishment of the fiscal mitigation payment, see the Fiscal Findings section of this Report and the Appendix tables with the Executive Officer’s Fiscal Allocations.

MITIGATION TERM

Government Code section 56845(c)(2) provides that mitigation may take the form of tax sharing agreements, lump sum payments, payments over a fixed period of time or any other terms and conditions imposed pursuant to Government Code section 56844. The Applicant has proposed a

¹³⁰ Government Code section 56845(c).

mitigation payment made over a twenty-year term.¹³¹ The City of Los Angeles has proposed a mitigation payment made on a monthly basis over a period of 25 years.¹³² In past California incorporations, the mitigation payment term has been set at a 10 to 25-year length through negotiations between the respective county and cityhood proponents.

For Goleta, Santa Barbara County established two tax-sharing agreements—one for a ten-year mitigation term and another in perpetuity. Orange County has previously calculated the mitigation liability initially based on a 14-year term, and then compressed the actual payments into the first seven years following incorporation. Sacramento County has required a relatively long mitigation term of 25 years, with rapid phase-out of the payment during the final five years of the term.

California Incorporation Mitigation Term	
City	Years
Goleta	10 years/Perpetuity
Aliso Viejo	14 years
Elk Grove	25 years
Rancho Santa Margarita	14 years
Laguna Woods	14 years
Citrus Heights	25 years

With mitigation payments owed over a multi-year period, the issues of inflation and present value must be addressed. In the case of Goleta, Elk Grove and Citrus Heights, the mitigation obligation was calculated as a share of the new city's revenues. The revenue-sharing approach addresses the problem of inflation eroding the value of the mitigation payment over time. In the case of the Orange County cities, the mitigation obligation was calculated as an annual dollar amount that increases with expected inflation as well as an additional factor representing expected borrowing costs. The Orange County cities were not expected to make a mitigation payment in the initial transition year.

Three approaches are presented in this Report for calculating the mitigation payment. In all three cases, the mitigation liability for each year has been adjusted for expected inflation of 2.5 percent, including expected inflation occurring between the CFA base year and the effective date.¹³³ In all three cases, the calculations assume that the Valley would make a pro-rated mitigation payment during the first partial fiscal year, and that mitigation payments would be due to the City of Los Angeles by the last day of the respective fiscal year.

The recommended alternative structures the mitigation payment as a twenty-year payment with a gradual phase-out. This approach is based in part on the Elk Grove mitigation payment that was structured to gradually reduce the County's reliance on the mitigation payment.¹³⁴ Under the recommended approach, the mitigation payment would be discounted by five percent annually beginning in the first full fiscal year following incorporation. This five percent phase-out rate is less than the City of Los Angeles' staff attrition rate (7 percent), implying that the City of Los Angeles could adjust to the financial effect of the Valley's departure without laying off City workers. By the year 2022, the Valley would make its final payment, which would be only 5 percent of the inflation-

¹³¹ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002.

¹³² City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

¹³³ U.S. Congressional Budget Office, *The Budget and Economic Outlook, Fiscal Years 2003-2012*, January 31, 2002.

¹³⁴ Elk Grove initially paid Sacramento County 90 percent of its property tax revenues, with the share declining by 5 percent every five years, and in the 19th year being phased out at a rate of 10 percent annually.

adjusted estimate in the CFA. The present value of the payment stream that would be made under this approach is \$471 million.¹³⁵ The Subcommittee recommended this approach.¹³⁶

An alternate approach structures the mitigation payment over a ten year term. Under this approach, the Valley would pay annually an amount equivalent to the CFA estimate with adjustments made for expected inflation. The Valley would make a pro-rated half-year payment in its eleventh year. The present value of the payment stream under this approach is \$490 million.

Another alternative follows the City's proposal for a 25-year term to the mitigation payment with inflation adjustments and without any phase-out.¹³⁷ The present value of the 25 years of payments would be \$1 billion.

Present Value of Mitigation Payment Streams Under Three Alternative Scenarios			
Term	20-year Phase-Out	10-year term	25-Year Term
20-Year	\$ 471,292,135	\$ 490,055,189	\$ 849,697,072
25-Year	\$ 471,292,135	\$ 490,055,189	\$ 1,005,564,816
Notes: (1) Inflation (2.5%) adjustment based on U.S. Congressional Budget Office forecast (2) Present value calculation based on ten-year Treasury security (constant maturity) yield rate of 5.25% on April 8, 2002.			

Executive Officer's Recommendation

Consistent with the Subcommittee's recommendation (with elaboration regarding inflation), the Commission should establish a mitigation payment amount and term in the following fashion:

- 1) the mitigation payment should be based on the staff-adjusted CFA estimate, adjusted over the term on an annual basis for actual inflation, as measured by the Consumer Price Index (CPI-U) for the Los Angeles metropolitan area, that occurred between January 2001 and January of that particular fiscal year; and
- 2) the mitigation payment should be discounted by a factor of five percent annually in a cumulative fashion, so as to completely phase out the mitigation payment after June 30, 2022.

For purposes of making provisional monthly fiscal mitigation payments, the new city should use the California Department of Finance forecasts of the Consumer Price Index for the Los Angeles area. Once the actual inflation data are available, the new city should adjust its next payment for any overpayment or underpayment made due to differences between the forecast and the actual inflation.

¹³⁵ Present value calculations provide a method of comparing the value of a future stream of payments in today's dollars. Present value is calculated based on the yield rate for ten-year Treasury notes at constant maturity, as valued on April 8, 2002.

¹³⁶ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

¹³⁷ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002. It should be noted that the City has requested a mitigation payment of \$306 million per year over 25 years, consisting of stranded costs (\$286 million) and other revenue foregone (\$20 million). The alternative proposed herein utilizes the staff-adjusted CFA mitigation payment estimate of \$35.2 million per year.

MITIGATION PAYMENT MECHANISM

The Commission has the option of requiring that the new city budget and encumber funds annually for the mitigation payment, or requiring that the new city share a portion of its revenues with the City of Los Angeles. Both the City of Los Angeles and the Applicant have proposed that the mitigation payment be structured as a share of tax revenues.

The City has expressed a preference for tying the mitigation payment to the property tax, business tax or utility users tax. The estimated \$55.8 million mitigation was 28.4 percent of the property tax revenue stream in the 2000-01 fiscal year. The same goal as recommended by staff for the mitigation term could be accomplished if the City of Los Angeles and the proposed new city adopted a tax sharing agreement whereby the new city shares 28.4 percent of its property tax revenues with the City of Los Angeles during the first partial fiscal year, and thereafter shares a revenue share decreasing annually by 1.42 percent in a cumulative fashion. Such an arrangement would require a tax-sharing agreement between the parties.

Given that the Subcommittee previously adopted a staff recommendation that all such revenues be remitted to the third party fiscal agent, the mitigation payment would be taken out of the new city's property taxes by that fiscal agent and remitted to the City of Los Angeles.

MITIGATION PAYMENT RECONCILIATION

The Applicant had earlier proposed that the Commission set up a process whereby future disagreements regarding the mitigation period would be resolved. The City of Los Angeles has proposed that any tax sharing agreement be automatically discontinued in the event of litigation, in order to create incentives for the parties to abide by the original mitigation agreement.

The Commission does not have enforcement authority over its terms and conditions once reorganization has been approved. To the extent that the parties desire to include provisions regarding reconciliation, arbitration or incentive provisions in any revenue neutrality or tax sharing agreements, they are free to negotiate those terms, and the Commission will require that the new city council approve the agreement at their first meeting. To the extent that the Commission must impose terms and condition regarding the mitigation payment or any tax allocation to mitigate the negative fiscal effect of the special reorganization, those terms and conditions would be judicially enforceable.

EMPLOYEES

Government Code section 56844.2 requires that collective bargaining agreements continue to be honored by the City of Los Angeles and a new Valley city for the balance of the term, and that existing retirement benefits be maintained. Consistent with these restrictions, the Commission may impose conditions involving the employment, transfer, or discharge of employees, civil service rights, seniority rights, retirement rights, and other employee benefits and rights.¹³⁸

EMPLOYEE TRANSFER

City of Los Angeles employees should be allowed to decide for themselves in deciding whether or not they would like to consider and be considered for employment at the new city. City employees will likely make these decisions based on a number of factors, including the commute, current job satisfaction, the competitiveness of the compensation offers, and the perception of promotional opportunities.

Both the City of Los Angeles and the Applicant have agreed that mandatory employee transfers should not be imposed, and none are recommended herein.¹³⁹

COLLECTIVE BARGAINING AGREEMENTS

Government Code section 56844.2(b) requires that the Valley city honor both the collective bargaining agreement and collective bargaining rights of any transferred employee. Government Code section 56844.2(c) requires that the Valley city honor any collective bargaining agreements in place on the effective date for the balance of the agreement term and until a subsequent agreement has been established. This effectively prohibits the Valley city from unilaterally changing the terms of existing collective bargaining agreements. The City of Los Angeles typically negotiates three-year employee agreements that govern salary, overtime pay, employee benefits, grievance procedures and other employment conditions.

The civilian employees are covered by twenty-four separate memoranda of understanding ("MOUs"), which are scheduled to expire on June 30, 2004. Coincidentally, the civilian contracts expire on the same day as the transition period ending date adopted by the Subcommittee for recommendation to the Commission. When the transition period ends, the City of Los Angeles will no longer be obligated to provide services to the Valley city. Judging from past practice, the City of Los Angeles is unlikely to finalize new MOUs with its employee unions until well after the MOU expiration date. Thus, it is reasonable to expect that most civilian employees who transfer to the Valley city would be covered by their existing City of Los Angeles MOU until a new collective bargaining agreement is negotiated with the Valley city.

The police officers and firefighters are covered by four separate MOUs, which are scheduled to expire on June 30, 2003. Given the complexity of establishing independent police and fire departments, it is reasonable to expect that the Valley city would most likely rely on the City of Los Angeles for contract police and fire service for several years after incorporation. Thus, City of Los

¹³⁸ Government Code section 56844(l)

¹³⁹ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002; City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

Angeles collective bargaining agreements will govern at least until such time as separate Valley city police and fire departments are created.

The City of Los Angeles has proposed that:

If the migrated employee was a represented employee at the time of resignation from City employment, the new city shall recognize a bargaining unit for such employee that is described similarly to that to which the migrated employee had belonged while employed by the City. The certified bargaining representative for such unit shall become the certified bargaining representative for the new city's bargaining unit. Any memorandum of understanding (labor contract), whether or not so named, for the migrated employee's City bargaining unit shall be binding on the new city for the balance of the term of the memorandum.¹⁴⁰

Similarly, the Applicant has proposed that:

Those employees who elect to take employment with the [Valley] City shall receive the same level of compensation and all benefits per their existing labor agreements, their seniority, bumping rights and placement on certification lists, and retirement benefits in accordance with the provisions of Government Code section 56844.2.¹⁴¹

The statutory employee protections are adequate. Consistent with the Subcommittee's recommendations, it is not recommended that any additional terms and conditions be added that could instead serve to prevent transferred employees from voluntarily accepting promotions or reclassifications from the new city. Transferring employees should be able to apply for positions at the Valley city that involve promotions or other suitable changes in job responsibilities. The new city must provide comparable compensation and benefits in order to recruit City of Los Angeles workers. The new city should have the flexibility to adopt its own unique organizational structure, and not have the City of Los Angeles structure imposed on it.

CIVIL SERVICE SYSTEM

The City of Los Angeles civil service system is codified in the City's Charter, civil service rules and policies, and other laws.¹⁴² The civil service system promotes professional management practices and protects employees from being replaced at the whim of elected officials or managers.

Each civil service system is unique with numerous precedents and specific requirements relating to work performance and job qualification standards. Civil service systems may also differ in the degree to which they reward work experience as opposed to productivity and skill, and in the degree to which they tolerate unproductive and unsuitable workers.

The City of Los Angeles has proposed that the Valley city be required to adopt all of the civil service charter provisions, administrative rules and policies in existence at the City of Los Angeles.¹⁴³ The Applicant has proposed that the new city be required to adopt the City's civil service system for

¹⁴⁰ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

¹⁴¹ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002.

¹⁴² Los Angeles City Charter, Art. X; City of Los Angeles Administrative Code, Div. 4, Ch. 1.

¹⁴³ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

transferring City of Los Angeles employees, but that the new city be left to develop its own system for employees who are not former City of Los Angeles employees.¹⁴⁴

Consistent with the Subcommittee's recommendations, the Commission should not impose the City of Los Angeles civil service system on the new city, in whole or in part. It should be noted that employees will likely be reluctant to accept work for public agencies without a civil service system or some other merit-based system, and that the laws of labor supply and demand will necessitate that the Valley create its own civil service or merit-based system. The Valley should have the flexibility, however, to develop its own system and not have a system imposed upon it by the Commission.

RETIREMENT BENEFITS

Government Code section 56844.2 requires that existing retiree benefits be maintained in the case of special reorganization.

The City of Los Angeles maintains two pension funds that are relevant for special reorganization. In both cases, the City Charter only provides for participation in these plans by employees of the City of Los Angeles.¹⁴⁵ During the transition period following special reorganization, the City employees serving the Valley would remain in the City's pension funds. If the City were to amend its charter, City employees who transfer to the Valley after the transition period could continue to be covered under the existing pension funds.¹⁴⁶ Otherwise, the Valley city would provide pension benefits through a separate fund, most likely through California Public Employees' Retirement System (CalPERS).

The Los Angeles City Employees' Retirement System (LACERS) provides pension benefits to 13,000 retired civilian employees and administers the payments received on behalf of 26,000 active civilian workers.¹⁴⁷ LACERS is fully funded, meaning that it would be able to pay out benefits to existing retirees as well as deferred retirement benefits for active employees who transfer to the Valley city. LACERS has a reciprocity agreement with CalPERS that allows employees to apply years of service at the City of Los Angeles toward pension eligibility with other public sector employers in California. Under this reciprocity agreement, the retirement benefits of current City of Los Angeles employees who choose to transfer over to the new city would be maintained.¹⁴⁸

The City of Los Angeles Fire and Police Pension System presents two complications in the event of special reorganization—funding status and lack of reciprocity. The system provides pension benefits to 11,700 retirees, and administers the payments received on behalf of 12,300 active fire fighters and police officers.¹⁴⁹ Although the pension plan may be fully funded, one-third of the health plan liability is not funded and requires ongoing subsidy.¹⁵⁰ The health plan subsidy in fiscal year 2000-01 amounted to \$26 million.

¹⁴⁴ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002.

¹⁴⁵ Los Angeles City Charter, Art. XI.

¹⁴⁶ City Charter amendments require voter approval. Cal. Const., Art. XI, § 3.

¹⁴⁷ Los Angeles City Employees' Retirement System, *Comprehensive Annual Financial Report For the Fiscal Year Ended June 30, 2000*, December 12, 2000; Los Angeles City Employees' Retirement System, *Audited Financial Statements*, June 30, 2001.

¹⁴⁸ California Public Employees' Retirement System, *When You Change Retirement Systems*. Office of Public Affairs Publication PERS-PUB-16, January 2001.

¹⁴⁹ City of Los Angeles Fire and Police Pension System, *Financial Statements and Supplemental Schedules, June 30, 2001 and 2000*.

¹⁵⁰ City of Los Angeles Fire and Police Pension System, *Financial Statements and Supplemental Schedules, June 30, 2000 and 1999*.

The Fire and Police Pension System does not have reciprocity agreements in place with other public safety pension funds or CalPERS. Because the officers are not vested in the pension plan until they have served 10 to 20 years, about 40 percent of the officers are not vested.¹⁵¹ If they should leave City employment before becoming vested, sworn personnel are only entitled to a refund of their payroll contributions with related interest earnings; others are not entitled to any refund.¹⁵² For the 5,100 non-vested police and firefighters, the City's lack of reciprocity limits their incentives to transfer to other jurisdictions, and allows the City to recoup its training investment in the police and firefighters.

In the event of special reorganization and creation of separate Valley city police and fire departments, the less experienced officers would face the prospect of losing their past pension contributions if they transferred to the new Valley departments and would be most likely to be laid off by the City if they did not transfer and the City needed to reduce its force to accommodate its reduced service needs.¹⁵³ The City of Los Angeles could maintain the non-vested officers' retirement benefits either by amending the charter to either: a) allow the Valley city to participate in the City's Fire and Police Pension System,¹⁵⁴ or b) permit reciprocity with CalPERS.

SURPLUS EMPLOYEES

Eventually the new city will provide services directly rather than purchase services from the City of Los Angeles. At that time, the new city will likely recruit City of Los Angeles workers and other available workers to fill its staff positions. If the Valley offers competitive salaries, benefits and working conditions, it should succeed in attracting a diverse mix of City of Los Angeles workers.

However, in the event that the City of Los Angeles is left with a surplus workforce, it would be faced with the choice of: (1) allowing surplus workers to diminish through natural attrition; (2) achieving other cost-savings or revenue enhancements that would finance the retention of the surplus workforce; or (3) laying off surplus workers through the City's seniority-based layoff system.

The Applicant has proposed that the Valley city and the City jointly create an employment training and transfer program to accommodate surplus workers who formerly provided service to the Valley and who have not been laid off by the City of Los Angeles.¹⁵⁵ The City has proposed that the new city pay the salaries of any surplus workers, and that the Commission recognize that the City of Los Angeles will have to use its own layoff system in the event that the new city refuses to make such payment.¹⁵⁶ Although such an arrangement would clearly give the Valley city incentives to attract and hire City of Los Angeles workers, it would give the City of Los Angeles incentives to retain surplus workers subsidized by the Valley city.

Both parties could potentially contribute to the creation of a surplus City of Los Angeles workforce. It is not in the interest of the taxpayers of either jurisdiction to be burdened with the costs of

¹⁵¹ Police and firefighters hired before 1998 must complete at least ten years of service prior to becoming vested, while those hired in 1998 or later must complete at least twenty years of service prior to becoming vested. Los Angeles City Charter, Art. XI, §§ 1504, 1604.

¹⁵² Los Angeles City Charter, Art. XI, §§ 1420, 1614.

¹⁵³ The City of Los Angeles has seniority based layoff procedures. Los Angeles City Charter, Art. X, § 1015 and Civil Service rule 8.

¹⁵⁴ City Charter amendments require voter approval. Cal. Const., Art. XI, § 3.

¹⁵⁵ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002.

¹⁵⁶ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

unnneeded or unsuitable workers. Both parties, therefore, have incentives to work together to resolve the issue of surplus employees when and if the issue arises. It would be difficult, however, to forecast with certainty at this point the circumstances under which the issue would arise and anticipate the most appropriate resolution. For these reasons, the Subcommittee recommended against the Commission imposing any terms and conditions on this issue, as it should be left for the parties to resolve.¹⁵⁷

¹⁵⁷ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

ASSETS

With regard to assets of the City of Los Angeles, the Applicant has consistently asserted its position that the people of the City of Los Angeles are "shareholders" in all of the City's assets, and entitled to a per capita, proportionate interest in all of the City's assets, facilities, etc. Generally speaking, the Applicant seeks a transfer of all assets located within the Valley Special Reorganization area, as well as a proportional interest or joint ownership of centralized assets.¹⁵⁸ The Applicant contends that the Commission has the discretion to transfer assets of the City of Los Angeles to the new city with or without compensation.¹⁵⁹

The City of Los Angeles contends that there are constitutional constraints to the transfer of property held by a municipal corporation in its proprietary capacity. The City has asserted that municipal corporations hold property in their proprietary capacity in the same manner and with the same rights as private persons holding property, and based thereon, the California Constitution prohibits the State from taking such property without just compensation or the consent of the City. The City further asserts that the constitutional protections afforded the City's property is strengthened by the City's status as a charter city.¹⁶⁰

In negotiations, the City of Los Angeles has offered to transfer local assets to the Valley city as an overall resolution of special reorganization issues, including transition period service costs, and debts and liabilities. The parties, however, have not yet negotiated any written agreements.

With respect to assets, the Commission has received differing legal opinions regarding the Commission's authority to transfer assets. The legal opinion of the County of Los Angeles Office of the County Counsel ("County Counsel"), the Commission's legal advisor, concluded that the Commission could only transfer proprietary assets of the City of Los Angeles subject to the payment of compensation or consent of the City, but could transfer assets held subject to a public trust without compensation.¹⁶¹ The legal opinion of the California Legislative Counsel ("Legislative Counsel") concluded that the Commission has the discretion to allocate assets either with or without compensation.¹⁶²

To the extent that these opinions conflict with respect to the manner in which the Commission may handle the transfer of assets, staff provided dual recommendations for the Subcommittee's consideration. Where there was no conflict in the legal opinions or where, because of other considerations, staff recommended a particular course of action, only one recommendation was provided to the Subcommittee.

LEGAL OPINIONS

The County Counsel's legal opinion concluded that the Commission was not authorized to transfer proprietary property of the City of Los Angeles to a Valley city without compensation or the consent of the existing city. The County Counsel concluded, however, that assets held pursuant to a

¹⁵⁸ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002.

¹⁵⁹ Best, Best & Krieger, LLP, letter to the Local Agency Formation Commission for Los Angeles County, dated December 13, 2001.

¹⁶⁰ City of Los Angeles, Office of City Attorney, Opinion letter, dated November 13, 2001.

¹⁶¹ County of Los Angeles, Office of the County Counsel, *Authority to Require the Transfer of Assets as Terms and Conditions of the Proposed Special Reorganizations*, November 21, 2001.

¹⁶² California Legislative Counsel Opinion No. 128, *Special Reorganizations: Division of Assets*, January 8, 2002.

public trust, such as pueblo lands, roads, highways, donated parks and donated libraries, may be transferred without compensation.

The Legislative Counsel's legal opinion concluded that the Commission has the discretion to order a transfer of assets from the City of Los Angeles to a proposed new city as a condition of approving a special reorganization, with or without compensation. The Legislative Counsel believes that it was the intent of the Legislature to leave the decision as to whether or not to require compensation to the Commission, and did not identify any constitutional restrictions on the Commission's authority to transfer assets without compensation.

PRECEDENTS

California LAFCOs have approached the transfer of assets in various ways. In looking at precedent cases, it is important to be mindful of whether or not there were any county-owned assets for providing purely local municipal services located in the incorporating areas, as well as the likelihood that the new jurisdiction would be directly providing those services for which those county-owned assets had been used.

In all cases of which we are aware, local streets and highways have transferred from the county to the newly incorporated city on the effective date pursuant to the Streets & Highways Code section 989, and Government Code section 57385. Although the streets automatically transfer, the Code does not explicitly state whether streetlights, traffic signals and the storm water and wastewater infrastructure beneath the streets should be transferred. In recent incorporations, Orange County has explicitly added that streetlights, local storm drain facilities and related easements transfer to the new city.

This Commission did not transfer any county assets or liabilities to Calabasas, Malibu or Santa Clarita when these cities incorporated. In the case of Malibu, the incorporation proponents requested transfer of the County's civic center building in Malibu; however, the Commission did not transfer this building. The City of Malibu has acquired use of portions of the building through a lease arrangement with the County.

The practices in other counties have varied. Sacramento LAFCO has not included any asset transfers (with or without compensation) in the resolutions for Citrus Heights or Elk Grove. In these areas, the county assets in the territories prior to incorporation primarily involved sheriff and fire stations. The new cities have continued to rely on the county for contract sheriff and fire services. San Bernardino LAFCO has transferred only the assets of dissolved county service areas to new cities.

Riverside County LAFCO placed all public facilities, land and fees into a trust fund, with the proviso that the parties negotiate a settlement of the assets following incorporation.

Parks and local storm water drainage facilities have been transferred from the county to the new cities in several incorporations. Sonoma, Santa Barbara and Orange County LAFCOs have transferred local parks and local storm water drainage facilities from the county to the new cities. In the case of Goleta, the asset transfer included in a written agreement between the county and the proponents, usually the transfer of such assets has been included only in the LAFCO resolution.

We are not aware of any incorporations where a transfer of county-owned assets was imposed by a LAFCO, and the county objected to the transfer.

TRUST ACCOUNT FUNDS & LIQUID ASSETS

Trust account funds, which are funds held by the City of Los Angeles in trust for location-specific uses, include development impact fees, development agreement funds, project-appropriated Capital Improvement Expenditure Program (“CIEP”) funds¹⁶³, and Quimby fees (parkland dedication in lieu fees). Liquid assets include fund balances in the City’s general fund and 50-plus special purpose funds.

Both the City of Los Angeles and the Valley city have proposed that impact fees that are set aside for use in a dedicated area located within the proposed Valley Special Reorganization area be transferred to the new city. In terms of precedent, the Santa Barbara and Sacramento County LAFCOs have also transferred impact fees to new cities.

The Applicant proposes the following term and condition, which is more expansive than the City’s: including

Cash and Other Liquid Assets. All such assets currently identified, or identified during the Transition Period, shall be transferred including (but not limited to):

- (a) Trust Account Funds - The City of Los Angeles will provide accounting for the purposes of distributing funds set aside for use in the territory included in the Valley City, including but not limited to development impact fees (as set forth in paragraph (1) below), development agreement funds, project-appropriated CI[E]P funding, Quimby fees (parkland dedication in lieu fees), and all other trust funds collected in the territory included in the Valley City expressly for projects or improvements therein.

(1) Development Impact Fees. The City of Los Angeles shall transfer to the Valley City impact fees and other special fees collected prior to the Effective Date that are obligated to be used solely in the territory of the Valley City for the construction of specific facilities or improvements, or the delivery of specific services, not yet constructed or delivered. The Valley City shall be required to spend such impact fees or other special fees for the original purposes for which such fees were collected and shall be bound by all legal obligations with respect to the use of such fees.

- (b) Other Liquid Assets - All other liquid assets shall be divided and transferred proportionate to population.¹⁶⁴

The City of Los Angeles has proposed the following term and condition:

The City shall transfer to the new city impact fees and other special fees collected prior to the incorporation that are obligated to be used solely in the territory of the new city for construction of specific facilities or improvements, or the delivery of specific services, not yet constructed or delivered. The new city shall be required to expend those moneys for the original purposes for which the fees were collected, and shall be bound by all legal obligations with respect to use of the money that would otherwise bind the City, including but not limited to, time limits, if any, in which to expend the money, or obligations to refund unexpended fees. The transfer

¹⁶³ CIEP funds are for street maintenance, street lighting, wastewater, storm water and transportation projects; these funds are generated by gas tax, wastewater fees, Proposition C funds and transfers from the City’s general fund.

¹⁶⁴ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002

of fees shall not toll any time limits in which to expend the moneys. The new city shall indemnify and hold harmless the City from any actions alleging improper use of these moneys.

Executive Officer's Recommendation

Consistent with the Subcommittee's recommendation, the Commission should require the transfer of trust account fund balances for projects specific to the Valley Special Reorganization area, and any unexpended general fund balances (including reserves) and special fund balances, except as set forth below.¹⁶⁵

Any general fund balances should transfer on the effective date to the third party fiscal agent in proportion to the Valley's past general fund contributions (30.57 percent), as estimated by the Commission. Any special fund balances should transfer on the effective date to the third party fiscal agent in proportion to the Valley's past revenue contributions to that fund, as estimated by the CFA. It is not recommended that the following special fund balances transfer, unless there is an agreement of the parties to transfer, because it is anticipated that the City of Los Angeles will retain control of the facilities that these funds support:

- Water Revenue Fund
- Power Revenue Fund
- Sewer Construction & Maintenance Fund
- Convention Center Revenue Fund
- Zoo Enterprise Trust Fund
- Special Police Communications/911 System Tax Fund
- City Employees Retirement Fund
- Fire and Police Pension Fund
- El Pueblo de Los Angeles Historical Monument Revenue Fund
- Staples Arena Special Fund,
- Tax and Revenue Anticipation Note Proceeds and Debt Service Funds, and
- Bond Redemption & Interest Funds.

The Executive Officer further recommends that the Commission require the new city to expend those impact fees and other special fees transferred for the original purposes for which the fees were collected, and be bound by all legal obligations with respect to use of those monies that would otherwise bind the City of Los Angeles, including but not limited to, time limits, if any, in which to expend the money, or obligations to refund unexpended fees. The new city should be required to indemnify and hold harmless the City from any actions alleging improper use of these moneys.

LOCAL SERVICE-RELATED ASSETS

Both the City of Los Angeles and the Applicant have agreed in principal that local assets related to municipal service provision that are located in the Valley could transfer to the new city as an overall resolution of special reorganization issues, including transition period service costs, and debts and liabilities. At their April 4, 2002 negotiating session, the parties agreed to a specific list of Valley

¹⁶⁵ Minutes of the Meeting of the Local Agency Formation Commission of the County of Los Angeles Findings, Terms & Conditions Subcommittee, February 25, 2002.

facilities that would transfer, along with the treatment of facilities with outstanding debt and leased facilities (see Appendix for facilities listing). The parties do not agree about the timing of the asset transfer. The City of Los Angeles has proposed that the assets transfer only after the transition period and after the Valley has met several conditions, whereas the Applicant proposes that the property transfer to the Valley on or soon after the effective date. The Applicant has explicitly proposed that such assets include municipal office buildings, parking facilities, public works yards, furnishing, fixtures, equipment and rolling stock located within the facilities or otherwise related to the facilities.

The City of Los Angeles has proposed the following term and condition:

Those local assets (e.g., parks, libraries) owned by the City located in the new city and as listed in appendix B shall be transferred to the new city without compensation when all of the following have occurred: (a) the transition period has ended, (b) the new city is not in default on any of its obligations under this resolution, and (c) the City and the new city have entered into an agreement which satisfies the City that mechanisms are in place to guaranty [sic] that the new city will be able to meet all of its obligations to the City, including but not limited to, the mitigation payment, debt service and liability payments, service costs, and transition costs. No assets, property, rights of way, easements or other property interests related to operation of the water system, power system, wastewater system, and communications or other centralized systems will be transferred.¹⁶⁶

The Applicant has proposed that all right, title, interest and responsibility of the City of Los Angeles, including the underlying fee title where owned by the City of Los Angeles or owned by City of Los Angeles-governed districts of all Police, Fire, Animal Services, Park, and Library buildings and facilities, including all furnishings, fixtures, rolling stock and other equipment contained therein or otherwise associated with the services provided by that facility located within the Valley city boundaries shall vest in the Valley city. The Applicant also seeks the transfer of all other municipal buildings, including all furnishings, fixtures, rolling stock and other equipment contained therein or otherwise associated with the services provided by that facility located within the Valley city boundaries.¹⁶⁷

Executive Officer's Recommendation

Consistent with the Subcommittee's recommendation, the Commission should require the transfer of title to all service-related local assets (itemized in Appendix Exhibit B) on the effective date without compensation. During the transition period, the City of Los Angeles should be entitled to use service-related assets, at no cost, for the provision of services to the Valley city.¹⁶⁸

In addition, the Executive Officer recommends that the Commission require the Valley city to permit the City of Los Angeles to continue using the booking facility at the Van Nuys Police Station located at 6240 Sylmar Avenue, with any associated cost-sharing arrangements to be negotiated by the parties.

¹⁶⁶ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

¹⁶⁷ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002

¹⁶⁸ Minutes of the Meeting of the Local Agency Formation Commission of the County of Los Angeles Findings, Terms & Conditions Subcommittee, February 25, 2002.

LEASES

Certain facilities used by the City of Los Angeles are leased from another owner. The City leases temporary office space and certain other facilities. For example, most of the council members' district offices are leased from private parties. Some facilities are leased from the City's enterprise departments, the state of California, and other public sector agencies.

The City of Los Angeles has proposed the following term and condition:

Subject to the consent of the lessor or terms of the lease, the City, at its option, may terminate any existing leases that the City no longer needs for the provision of services in the area detached from the City, or assign the lease to the new city, which shall accept the lease. Should the new city not accept the lease, any costs incurred by the City as a result thereof shall be treated as transition costs and reimbursed in accordance with paragraph 2.¹⁶⁹

The Applicant has not proposed any conditions relating to leases.

Executive Officer's Recommendation

Consistent with the Subcommittee's recommendation, the Valley city should not be required to accept lease assignments.¹⁷⁰ To the extent that there are transition costs associated with existing City leases as a result of the special reorganization, those costs should be addressed as transition costs to be negotiated by the parties.

STREETS AND HIGHWAYS

In annexations and incorporations of previously unincorporated territory, the streets and highways transfer to the new jurisdiction.¹⁷¹ Cities hold street and highway rights of way dedicated for public use as a public trust. As a public trust, these rights of way are typically transferred to whatever local entity has jurisdiction over the territory in which they are located. LAFCOs typically transfer the streets and highways without defining which street-related assets would transfer. In the Rancho Santa Margarita incorporation, the Orange County LAFCO transferred public roads, bridges, adjacent slopes, streetlights, traffic signals and any appurtenant slopes, sidewalks, trails, landscaped areas, medians and other adjacent property.

In addition to the street infrastructure, the rights of way contain wastewater, water, power and communications pipes, cables, and lines. The new city will have the power to confer utility franchises for utility improvements within the rights of way. Local government agencies typically negotiate franchise agreements with utility providers that allow a utility company to use the rights of way in exchange for franchise fees.

Beneath the streets lie both local sewer pipes and the major sewer pipes conveying sewage to treatment plants. The local sewer pipes constitute the wastewater collection system, and are typically owned by the city in which they are located. The two regional wastewater systems—the City of Los Angeles and County Sanitation District—process almost all of the Los Angeles area wastewater. The regional systems own and maintain the larger sewer pipes, also known as trunk lines and outfalls, inside and outside the cities. The cities own the local sewers—the collection system of sewer

¹⁶⁹ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

¹⁷⁰ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

¹⁷¹ Streets & Highways Code section 989, Government Code sections 57329, 57385.

pipes that connect into the trunk lines—and are responsible for maintaining local sewers, issuing sewer permits, and billing sewer customers. If the City of Los Angeles were to retain the local wastewater collection system in the Valley, it would be a unique arrangement. However, the City has requested that it retain ownership of these local assets, and the Applicant is amenable to continued City of Los Angeles ownership of the wastewater collection system at least until the outstanding bonded indebtedness associated with the system is retired. The wastewater system and other public utility systems operated by the City of Los Angeles will be addressed in the Enterprises section of this Report.

Additional City of Los Angeles communications assets may also lie beneath the streets in the Valley. Such assets may include fiber optic cabling for computer networking. The City has not adequately identified its “communications or other centralized systems” that the City proposes to retain.

The City of Los Angeles has proposed the following term and condition:

Upon incorporation the new city shall receive real property interests in roads and highways owned by the City within the incorporated area, except the City [of Los Angeles] shall retain title to all assets, property, rights of way, easements, and other property interests (including, but not limited to, those that may be on, under, or adjacent to those roads and highways) related to operation of the water system, power system, wastewater system, and communications or other centralized systems.¹⁷²

The Applicant has proposed the following term and condition:

Upon the effective date all right, title, interest and responsibility of the City of Los Angeles, including the underlying fee title where owned by the City of Los Angeles or owned by City of Los Angeles-governed districts located within the Valley City boundaries shall vest in the city as follows.... All right, title, interest and responsibility ...[for] any and all public roads, adjacent slopes, medians, sidewalks, trails, bikeways, landscaped areas, open space, street lights, signals, and bridges located within the Valley City boundaries shall vest in the Valley City.¹⁷³

Executive Officer’s Recommendation

Consistent with the Subcommittee’s recommendation, the Commission should impose the following term and condition:

Upon the effective date of incorporation, all right, title, interest and responsibility for any and all public roads, adjacent slopes, medians, sidewalks, trails, bikeways, landscaped areas, open space, street lights, signals, and bridges located within the boundaries of the special reorganization area shall vest in the new city, except that the City of Los Angeles shall retain title to all assets, property, rights of way, easements, and other property interests (including, but not limited to, those that may be on, under, or adjacent to those roads and highways) related to operation of the

¹⁷² City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

¹⁷³ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002

water system, power system, wastewater system, and communications or other centralized systems.¹⁷⁴

The wastewater system will be addressed in the Enterprises section of this Report.

STORM WATER FACILITIES

The Orange County LAFCO has transferred local storm drain facilities to new cities. In the Rancho Santa Margarita resolution, drainage devices, storm drain channels, and appurtenant facilities, site drainage and all storm drain facilities were transferred to the new city.

The City of Los Angeles has proposed the following term and condition:

Storm drains owned in fee by the City and storm drain easements owned by the City that are located in the incorporated area shall be transferred to the new city. The new city shall obtain its own MS4 permit or other necessary permit from the California Regional Water Quality Control Board in order to discharge into the waters of the United States.¹⁷⁵

The Applicant has proposed the following general terms and conditions that would encompass storm water facilities:

Upon the Effective Date, the Valley City shall assume ownership and maintenance responsibilities for all City of Los Angeles drainage devices, storm drain channels and appurtenant facilities, site drainage, and all master plan storm drain facilities, located within the Valley City's boundaries. The Valley City shall be responsible for obtaining its own MS4 permit or other necessary permit from the California Regional Water Quality Control Board or other governmental agency related to the discharge of waters. The Valley City shall be responsible for the administration of floodplain zoning and Federal Emergency Management Agency's ("FEMA") floodplain regulations.¹⁷⁶

Executive Officer's Recommendation

Generally speaking, the parties are in agreement that the storm drain facilities in the Valley Special Reorganization area should transfer to the new city. The Subcommittee had recommended adopting the proposed term and condition of the City of Los Angeles.¹⁷⁷ Since that time the Applicant has provided the above language which the Executive Officer now recommends, as it is more specific and inclusive.

MISCELLANEOUS ASSETS

In negotiation sessions, both the City of Los Angeles and the Applicant agreed that easements should transfer along with related property.

The Applicant has also proposed that:

¹⁷⁴ Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

¹⁷⁵ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

¹⁷⁶ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002

¹⁷⁷ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

Other assets related to all facilities and services transferred, including assets held by the City of Los Angeles such as furnishings, fixtures, equipment, data bases, software, records of various types which will be necessary for the continued provision of service located within the Valley City boundaries shall vest in the Valley City, subject to existing license and other contractual limitations.¹⁷⁸

Certain assets were not explicitly addressed, such as City passenger buses and sanitation equipment used to service the Valley Special Reorganization area. The Valley has proposed a catch-all provision that would transfer miscellaneous assets of this sort:

All other property owned by the City of Los Angeles, excluding assets specifically addressed elsewhere, located within the Valley City boundaries shall vest in the Valley City.¹⁷⁹

The City of Los Angeles proposes that specific assets that transfer should be listed in the resolution making determinations; however, the City has not provided any such listing for miscellaneous equipment, rolling stock, and databases.

Executive Officer's Recommendation

Consistent with the Subcommittee's recommendation, the Commission should transfer easements on the basis of functional association with other transferred assets, and adopt a provision transferring, without compensation, all other assets owned by the City of Los Angeles and located within the Valley Special Reorganization area, but not transferred or excluded from transfer elsewhere in the resolution.¹⁸⁰

¹⁷⁸ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002.

¹⁷⁹ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002.

¹⁸⁰ Minutes of the Meeting of the Local Agency Formation Commission of the County of Los Angeles Findings, Terms & Conditions Subcommittee, February 25, 2002.

ENTERPRISES

City of Los Angeles enterprises include the Department of Water and Power (“DWP”), the airport system (Los Angeles World Airports), and the Port of Los Angeles (the “Port”), in addition to the City’s wastewater treatment infrastructure. Certain enterprises are located entirely outside of the proposed new city, such as the Port. Other enterprises are located wholly or partially within the proposed city, such as the Van Nuys Airport, water reservoirs and an aqueduct.

In general, the City of Los Angeles has proposed that it retain the assets under the control of the Departments of Airports, Harbor, and Water and Power, along with ownership and control of the wastewater system.¹⁸¹ The Applicant has proposed that the Commission transfer Van Nuys Airport, and a proportional undivided interest in the Department of Water and Power as well as the wastewater system.¹⁸²

AIRPORTS

Van Nuys Airport is one of four airports owned by the City of Los Angeles. Van Nuys is a “general aviation” airport, serving recreational, corporate, and non-scheduled commercial flights. Typical of major international airport agencies in the nation, Los Angeles World Airports establishes asymmetric landing fees for recreational and other small aircraft to encourage them to use general aviation airports and draw small airplanes away from congested international hubs.

The federal government granted the Van Nuys Airport to the City of Los Angeles for “public airport purposes for the use and benefit of the public.” The Federal Aviation Administration (FAA) has ultimate authority over the transfer of the Van Nuys Airport due to a restriction in the deed. If the Commission were to transfer Van Nuys Airport to the new city, it could only do so subject to FAA approval, otherwise the airport could revert back to federal government ownership.¹⁸³ The City of Los Angeles may also own properties adjacent to the original airport property transferred under the federal grant that may not be subject to a similar restriction.

The Applicant has proposed that:

Subject to the approval of the FAA Van Nuys Airport shall be transferred to the new Valley City.¹⁸⁴

The City of Los Angeles has proposed that it retain control and ownership over all airports including Van Nuys.¹⁸⁵

Executive Officer’s Recommendation

Consistent with the Subcommittee’s recommendation, the Commission should transfer the Van Nuys Airport to the Valley city subject to FAA approval; any City-owned property adjacent to the

¹⁸¹ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

¹⁸² Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002.

¹⁸³ Quitclaim deed, dated February 10, 1949, transferring Van Nuys Army Airfield to the City of Los Angeles.

¹⁸⁴ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002.

¹⁸⁵ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

airport, the transfer of which is not subject to FAA approval, should transfer without compensation.¹⁸⁶

PORT OF LOS ANGELES

The City of Los Angeles holds title in trust to the Port pursuant to a tidelands grant from the State of California, and only the Legislature can modify the grant. The State Lands Commission has ultimate authority over whether or not tidelands may be included within the boundaries set forth in a proposal for government change of organization or reorganization. No part of the Port is located within the boundaries of the Valley Special Reorganization area. Both the City of Los Angeles and the Applicant agree that ownership and control over the Port will remain with the City of Los Angeles.

UTILITIES

The City of Los Angeles municipal utilities include water service, power service, and wastewater disposal and treatment service. The DWP provides both water and power service, while the City's Department of Public Works provides wastewater services.

The City of Los Angeles has proposed that it retain ownership and control over the water, power and wastewater systems. Further, the City has proposed that it be explicitly allowed to impose wastewater fees and regulate industrial wastewater dischargers located in the Valley.¹⁸⁷ The Applicant has proposed that it receive an undivided proportional interest in these systems and, barring such an arrangement, that the City of Los Angeles be obligated to provide utility services to Valley residents at the same rates that the City charges its own residents.

The Commission lacks the authority to impose a joint powers authority arrangement for joint ownership of the utilities because a joint powers authority must be formed by at least two existing public entities, and the proposed city has not yet been formed. Joint ownership might also be achieved by forming a utility district encompassing the territory of the City of Los Angeles, as it now exists, including any cities to be formed pursuant to special reorganization. Depending on the type of district proposed, formation must be initiated by the public entities involved or it must be initiated by petition. For instance, pursuant to the Municipal Utility District Act, formation proceedings must be initiated by resolution of the public agencies involved or by petition signed by ten percent of the registered voters.¹⁸⁸ The Applicant cannot comply with the first means of initiation because the proposed new city has not been formed and the City of Los Angeles has not agreed to the formation of such a district. Neither has the Applicant complied with the second means of initiation, because it has not submitted a petition for the formation of such a district signed by ten percent of the registered voters. Other types of districts would likely have similar initiation requirements.

It also appears that the Commission may not have the authority to transfer utility assets because the City has constitutional and statutory rights to own and operate public utilities, and any transfer of such assets may be subject instead to the requirements of the Public Utilities Code.¹⁸⁹ This would

¹⁸⁶ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

¹⁸⁷ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

¹⁸⁸ Public Utilities Code sections 11581, 11641.

¹⁸⁹ Cal. Const., Art. XI, § 9(a), Public Utilities Code section 10052, *et seq.*

also include the wastewater collection system discussed under the Streets and Highways section of this Report.

Executive Officer's Recommendation

Consistent with the Subcommittee's recommendation, the Commission should not transfer any public utility assets to the new Valley city.¹⁹⁰ It is recommended that these integrated systems remain under single ownership and that the Commission, instead, fashion terms and conditions that will ensure that Valley customers continue to be provided the same level of service at the same rates as City of Los Angeles customers.

In addition, it is recommended that the Commission adopt the City's proposed condition authorizing the City to continue to impose fees and charges related to operation of the wastewater system and to regulate industrial dischargers.

Utility Service

As the owner of these public utility systems, the City of Los Angeles would be obligated to continue to provide public utility services to the Valley in the event of special reorganization. The City of Los Angeles has proposed that utility customers in the new city be required to remain customers of the City of Los Angeles until the existing utility debt has been repaid. The City of Los Angeles currently has long-term debt that is scheduled to reach maturity in 2042 for water service¹⁹¹ and 2028 for wastewater service.¹⁹² The long-term debt for power service is scheduled to reach maturity in 2032¹⁹³ after the termination of existing take-or-pay obligations.¹⁹⁴

As part of the transfer of streets and highways, the rights of way in the Valley Special Reorganization area would be transferred to the new city. With control of the rights of way, the new city may grant a franchise to utility providers to use those rights of way for the purpose of providing utility service.

Local governments typically grant utility franchises for fixed terms of 15 to 60 years. The local government agency typically negotiates a franchise agreement whereby a utility company is authorized to use its rights of way in exchange for franchise fees. The County of Los Angeles has 20 separate water franchise agreements for its unincorporated areas, most of which are 25-year non-exclusive agreements. In the case of power, Sempra (Southern California Edison) has non-exclusive franchise agreements with the County of Los Angeles and the City of Long Beach for 50 and 60-year terms respectively. Within the County of Los Angeles, an exclusive franchise agreement may only be granted subsequent to a competitive bid process.

Executive Officer's Recommendations

Consistent with the Subcommittee's recommendation, the Commission should require that the City of Los Angeles continue to provide water and power public utility service to customers located in the new city and require that the new city protect the rights of DWP bond-holders by adopting

¹⁹⁰ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

¹⁹¹ Water Services, Department of Water and Power, City of Los Angeles, *Report and Financial Statements*, June 30, 2001.

¹⁹² *Official Statement, Los Angeles Wastewater System Revenue Bonds, Refunding Series 1999-A*, January 26, 1999.

¹⁹³ Energy Services, Department of Water and Power, City of Los Angeles, *Report and Financial Statements*, June 30, 2001.

¹⁹⁴ City of Los Angeles, Office of Administrative and Research Services, *City Response to LAFCO Regarding Valley Secession Proposal and Initial Fiscal Analysis*, June 13, 2001.

agreements for water and power with the City of Los Angeles for terms that end no sooner than the latest maturity date of bonded indebtedness for debt issued prior to the effective date.¹⁹⁵

Consistent with the Subcommittee's recommendation, the Commission should also require that the City of Los Angeles continue to provide wastewater collection and treatment service to customers located in the new city and that the new city protect the rights of wastewater system bond-holders by adopting an agreement for wastewater services with the City of Los Angeles for a term that ends no sooner than the latest maturity date of bonded indebtedness for debt issued prior to the effective date.¹⁹⁶

Utility Rates

The City of Los Angeles has indicated that it could charge customers in the Valley city a premium for water usage that reflects the differential between the cost of water purchased from the Metropolitan Water District and the cost of Los Angeles Aqueduct water.¹⁹⁷ The City contends that it should be permitted to set justifiable rate differentials restricted only by the legal standards set forth in case law. Legal Counsel has advised, however, that Commission has the authority to impose terms and conditions regarding rates.¹⁹⁸ Given that it is recommended that the City of Los Angeles retain full ownership of its public utility assets and that the new city's residents remain customers of the DWP at least until the latest maturity date of the DWP's bonded indebtedness, those customers should be provided some rate protection. The Commission may do so without restricting the City's ability to raise rates to meet changing circumstances by requiring that the DWP charge the same rates within both cities, as it does presently in those territories.

Executive Officer's Recommendation

Consistent with the Subcommittee's recommendation, the Commission should require the City of Los Angeles to provide the same level of service as is provided to each particular type of customer within the City of Los Angeles to customers of the corresponding type within the new Valley city, and to charge the same utility rates as are charged to each particular type of customer within the City of Los Angeles to customers of the corresponding type in the new Valley city, with no rate differential based upon the location of the customer within one city or the other, such that while the City of Los Angeles may adjust rates and differentiate between different types of customers based on usage or cost of service, the rates charged to a particular type of customer in the remaining City will always be the same as the rate charged to the corresponding type of customer in the new Valley city, and to the extent that there are additional costs associated with the provision of utility services to a particular type of customer in either area, those additional costs shall be borne uniformly across the two cities by that type of customer, without any differentials based upon the location of the customer within one city or the other.

¹⁹⁵ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

¹⁹⁶ *Id.*

¹⁹⁷ City of Los Angeles, Office of Administrative and Research Services, *City Response to LAFCO Regarding Valley Secession Proposal and Initial Fiscal Analysis*, June 13, 2001, page 674.

¹⁹⁸ County of Los Angeles, Office of the County Counsel, *Commission Authority to Set Terms and Conditions Regarding Public Utilities*, February 7, 2002.

LIABILITIES

Government Code section 56844(c) authorizes the Commission to set terms and conditions related to the imposition, exemption, transfer, division or apportionment, as among affected agencies, of liability for payment of all or any principal, interest, and any other amounts which shall become due on account of all or any part of any outstanding or then authorized but thereafter issued bonds, including revenue bonds, or other contracts or obligations of any city, county, district or improvement district.

Government Code section 56121 provides that no change of organization or reorganization, or any term or condition thereof “shall impair the rights of any bondholder or other creditor of any county, city or district.” It also provides that any bondholder or creditor may enforce his or her rights in the same manner and to the same extent as if the change of organization, reorganization or term or condition had not been made. Thus, the Commission should not impose terms and conditions relating the apportionment of liabilities that adversely impact the rights of bondholders or creditors; however, the Commission should also be aware of the fact that pursuant to Government Code section 56121, the rights of bondholders and creditors are protected should the special reorganization or a term and condition of the special reorganization ultimately have an unforeseen adverse impact on their rights.

The City of Los Angeles has proposed in general that the Valley city pay its portion of the City debt on a monthly basis until the debt is extinguished.¹⁹⁹

The Applicant has proposed:

The cost of existing liabilities of the City of Los Angeles (those existing as of June 30, 2000) associated with City-wide serving assets such as the Main Library have been included in the Municipal Service Cost Estimates included in the Comprehensive Fiscal Analysis. The City of Los Angeles may include these costs in Municipal Transition Service Costs and Interim Municipal Service Agreements, subject to the approval of the Valley City, which shall not be unreasonably withheld.

Liabilities in this category are those related specifically to the assets including leases or liens, bonded debt, or other linked expenses such as insurance payments. These related liabilities shall be allocated to the Valley City and shall be secured, in one manner or another, as a condition of asset transfer.²⁰⁰

TAX AND REVENUE ANTICIPATION NOTES

The City of Los Angeles has raised concerns about its ability to issue and reimburse fiscal year 2002-03 tax and revenue anticipation notes so long as the Commission imposes a mid fiscal year effective date. The City's Controller has indicated that the City is contemplating issuance of approximately \$250 million in short-term debt for the upcoming fiscal year. The City is expected to issue the debt in June 2002, and to repay the debt in July 2003.

The Comprehensive Fiscal Analysis allocated \$42 million in short-term debt costs to the new city.

¹⁹⁹ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

²⁰⁰ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002.

Executive Officer's Recommendation

Should the Commission impose an effective date other than July 1, 2003, it is recommended that the fiscal agent be required to set aside the new city's share of tax and revenue anticipation note debt outstanding prior to the effective date of incorporation on the dates and in the proportions dictated by the pledge schedule in the City's bond covenant. For the pension portion of the debt, the new city's share of debt service should be proportional to its contribution to the City's general fund (30.57%), and then reduced by half. For the cash flow portion of the debt, the new city's share should be zero (0%). The fiscal agent should be required to remit the debt payment to the City of Los Angeles in a timely fashion for repayment of the bondholders, with appropriate deductions for interest earned by the City on any pledged funds paid by the Valley prior to the City's actual payment of debt service. For the 2003-04 fiscal year and subsequent years, each party should be responsible for its own tax and revenue anticipation notes.

GENERAL OBLIGATION BONDS

General obligation (GO) bonds are voter-approved loans from bondholders for the acquisition and improvement of real property, and are repaid through increased property taxes. The City of Los Angeles had \$766 million (as of February 2002) in outstanding debt in the form of general obligation bonds, the proceeds of which have been used to fund library, zoo, fire, helicopter and animal shelter facilities. The existing debt should be repaid with interest in 2022.

The general obligation bonds are secured by tax liens on property in the City of Los Angeles. The City of Los Angeles determines the GO property tax rate, the County collects the taxes from the property owners, and the City of Los Angeles pays debt service to the bondholders.

Given that property owners throughout the City of Los Angeles approved the GO bonds by a two-thirds vote, the property owners in the Valley and remaining City of Los Angeles should continue to be liable for the payment of ad valorem GO property taxes.

Executive Officer's Recommendation

Consistent with the Subcommittee's recommendation, the Commission should require the new city to pass an ordinance by August 1 of each year adopting the GO property tax rate established by the City of Los Angeles for repayment of GO debt outstanding on the effective date, and require the new city to authorize the Los Angeles County Tax Collector to remit to the City of Los Angeles all Valley property owners' payments for GO debt outstanding on the effective date. The City of Los Angeles should continue to be responsible for repaying the bondholders.²⁰¹

ASSESSMENT BONDS AND SPECIAL TAX BONDS

The City of Los Angeles has \$212 million in outstanding special tax bonds. This debt primarily consists of voter-approved bonds for a police emergency communications system. In addition, the City has issued about \$13 million in Proposition K parcel tax bonds for parks, recreation facilities, and childcare centers in a citywide assessment district. Further, there are two Mello-Roos bonds approved by voters in small assessment districts within the City, with \$8 million in outstanding debt approved by a Pershing Square Park district and \$11 million in outstanding debt approved by Cascades Business Park district in Sylmar.

²⁰¹ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

So long as the Valley parcels that are currently encumbered would remain encumbered until the bonds are paid in full, there should not be a negative impact on bondholders or the remainder of the City of Los Angeles.²⁰²

Executive Officer's Recommendation

Consistent with the Subcommittee's recommendation, the Commission should require the parcels that are currently encumbered with such assessments to remain encumbered until the bonds are paid in full, including parcels within the Valley Special Reorganization area that are currently encumbered. Property owners in the new city would not bear liability for outstanding Pershing Square Park Project debt. Property owners in the new city would continue to bear liability for assessments related to the police emergency communications system, Proposition K, and the Cascades Business Park assessment in Sylmar.²⁰³

JUDGMENT OBLIGATION BONDS

The City of Los Angeles currently has \$75 million in outstanding debt financed by judgment obligation (JO) bonds. The debt has been issued to pay business tax refunds and other claims resulting from past legal claims against the City of Los Angeles. Most of this debt is related to business tax refunds to financial institutions, and will be fully defeased within a few months after the effective date. However, a portion of the debt will not reach maturity until the year 2011.

The City of Los Angeles has proposed that:

For these forms of indebtedness, the new city shall pay its share of existing debt (30.46%) to the City on a monthly basis until the debt is extinguished. If the new city does not make this payment, the County Auditor-Controller shall pay the City the sums due for the new city's share of debt service using the property tax otherwise payable to the new city. This payment to the City from either the new city or the Auditor-Controller shall occur monthly.²⁰⁴

Staff estimates that the Valley's contribution to the general fund is 30.57 percent, based on adjustments for boundary changes and use of the most recent fiscal year data. The Subcommittee recommended that the Commission require the new city to make monthly debt service payments to the City of Los Angeles for the debt until the new city pays the City of Los Angeles for its share of the outstanding debt.²⁰⁵

Executive Officer's Recommendation

Similar to the Subcommittee's recommendation, the Commission should require the new city to pay 30.57 percent of City of Los Angeles debt service for the debt outstanding on the effective date consistent with the payment schedule in the bond covenant, unless and until the new city pays the City of Los Angeles for its share of the outstanding debt. The fiscal agent should be required to remit the debt payment to the City of Los Angeles in a timely fashion for repayment of the

²⁰² Public Financial Management, *San Fernando Valley Proposal for Special Reorganization Comprehensive Fiscal Analysis*, January 9, 2002.

²⁰³ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

²⁰⁴ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

²⁰⁵ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

bondholders, with appropriate deductions for interest earned by the City on any pledged funds paid by the Valley to the City prior to the City's actual payment of debt service.

GENERAL FUND LEASE OBLIGATIONS AND CERTIFICATES OF PARTICIPATION

The City of Los Angeles has approximately \$1.1 billion in outstanding debt in the form of lease bonds or certificates of participation (COPs). These bonds have been used to purchase real property and equipment anticipated to have a useful life of six years or more. In addition to real estate, the bonds have financed a central library cataloguing system, heavy-duty equipment, fire trucks, helicopters and major computer systems. The bonds are secured on the assets that have been financed in this manner, or in some cases related assets. The "lease payments" for these assets include debt service, and are paid out of the City of Los Angeles general fund.

The Comprehensive Fiscal Analysis estimated that 27 percent of this debt would be borne by the new city. The CFA approach is as follows:

In order to comply with state constitutional debt limit provisions (Art. XVI, Section 18), the apportionment of obligations represented by COPs generally should be based on where the leased property is located. This should not raise impairment problems so long as the market value and credit ratings of the COPs are not adversely affected by such apportionment.... To ensure that the rights of bondholders are not negatively impacted as a result of a special reorganization...it is assumed the Valley city would make payment for a portion of the City's outstanding lease obligations according to the proportion of assets financed, which would continue to provide service to the Valley city upon a special reorganization.²⁰⁶

The City is prohibited from assigning its lease obligations by the terms of the lease bonds and COPs, but the City may sublease the financed assets. The City of Los Angeles must be able to demonstrate that it has beneficial use of the property. The City of Los Angeles has concluded that "this will likely require any MICLA obligation concerning property to be transferred to a seceding entity to be defeased." The City of Los Angeles has proposed that:

For these forms of indebtedness, the new city shall pay its share of existing debt (30.46%) to the City on a monthly basis until the debt is extinguished. If the new city does not make this payment, the County Auditor-Controller shall pay the City the sums due for the new city's share of debt service using the property tax otherwise payable to the new city. This payment to the City from either the new city or the Auditor-Controller shall occur monthly.²⁰⁷

Staff estimates that the Valley's contribution to the general fund is 30.57 percent, based on adjustments for boundary changes and use of the most recent fiscal year data.

The Subcommittee recommended that the Commission should require the new city to make monthly debt service payments to the City of Los Angeles for the debt that is secured and paid by

²⁰⁶ Public Financial Management, *San Fernando Valley Proposal for Special Reorganization Comprehensive Fiscal Analysis*, January 9, 2002.

²⁰⁷ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

the general fund, on the basis of the new city's contribution to the general fund (30.57%) unless and until the new city pays the City of Los Angeles for its share of the outstanding debt.²¹²

Executive Officer's Recommendation

Similar to the Subcommittee's recommendation, the Commission should require the new city to make debt service payments to the City of Los Angeles, consistent with the payment schedule for the bond covenant, for the debt that is secured and paid by the general fund, on the basis of the new city's contribution to the general fund (30.57%) unless and until the new city pays the City of Los Angeles for its share of the outstanding debt. The fiscal agent should be required to remit the debt payment to the City of Los Angeles in a timely fashion for repayment of the bondholders, with appropriate deductions for interest earned by the City on any pledged funds paid by the Valley to the City prior to the City's actual payment of debt service.

Consistent with the Subcommittee's recommendation, if the debt-financed equipment cannot be transferred to the new city, the Commission should require the City of Los Angeles to provide the new city with access to, and use of, an equitable share of this debt-financed equipment during its useful life. The new city should not bear responsibility for debt paid by special funds, in particular, the portion of debt paid by Convention Center revenues, the Staples Arena developer or the Pershing Square special taxes.²⁰⁸

SANITATION EQUIPMENT CHARGE REVENUE BONDS

Sanitation equipment charge revenue bonds have been used to purchase garbage containers and trucks throughout the City of Los Angeles. As of February 2002, the City had \$173 million in outstanding sanitation equipment debt. These bonds are secured on revenues from the sanitation equipment charge. The City of Los Angeles estimated that 41 percent of current sanitation equipment charges are generated in the San Fernando Valley, and has proposed that the new Valley city bear 41 percent of the outstanding debt.²⁰⁹ This allocation was estimated by the City of Los Angeles and has not been reviewed by staff.

The Subcommittee recommended that the Commission should require the new city to make monthly debt service payments to the City of Los Angeles for its portion of the sanitation equipment charge revenue bonds debt on the basis proposed by the City unless and until the new city pays the City of Los Angeles for its share of the outstanding debt.²¹⁰

Executive Officer's Recommendation

The Executive Officer has recommended that the City of Los Angeles retain the sanitation charges collected in the Valley during the transition period and credit those charges toward the transition period service payment. Consistent with that recommendation, the City of Los Angeles should be required to pay the new city's share of the outstanding sanitation equipment charge revenue bonds debt from the sanitation charges collected in the Valley during the transition period. After the transition period, the Commission should require the new city to make debt service payments to the

²¹² *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

²⁰⁸ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

²⁰⁹ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

²¹⁰ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

City of Los Angeles, consistent with the payment schedule in the bond covenant, for a 41 percent share of the sanitation equipment charge revenue bonds debt unless and until the new city pays the City of Los Angeles for its share of the outstanding debt. The fiscal agent should be required to remit the debt payment to the City of Los Angeles in a timely fashion for repayment of the bondholders, with appropriate deductions for interest earned by the City on any pledged funds paid by the Valley to the City prior to the City's actual payment of debt service.

PARKING REVENUE BONDS

The City of Los Angeles has \$80 million in outstanding debt in the form of parking revenue bonds. These bonds are secured on revenues from parking meters and City-owned parking lots, of which about 12.25 percent is generated in the San Fernando Valley. This allocation was estimated by the City of Los Angeles and has not been reviewed by staff. The City's bond covenant requires that parking revenues net of operating costs equal at least 125 percent of annual debt service.

The City of Los Angeles has proposed that:

For these forms of indebtedness, the new city shall pay its share of existing debt (13%) to the City on a monthly basis until the debt is extinguished. If the new city does not make this payment, the County Auditor-Controller shall pay the City the sums due for the new city's share of debt service using the property tax otherwise payable to the new city. This payment to the City from either the new city or the Auditor-Controller shall occur monthly.²¹¹

The Subcommittee recommended that the Commission should require the new city to make monthly debt service payments to the City of Los Angeles for its portion of the parking revenue bonds debt on the basis proposed by the City unless and until the new city pays the City of Los Angeles for its share of the outstanding debt.²¹²

Executive Officer's Recommendation

The Executive Officer has recommended that the City of Los Angeles retain the parking fees collected in the Valley during the transition period and credit those charges toward the transition period service payment. Consistent with that recommendation, the City of Los Angeles should be required to pay the new city's share of the outstanding parking revenue bond debt from the parking fees collected in the Valley during the transition period. After the transition period, the Commission should require the new city to make debt service payments to the City of Los Angeles, consistent with the payment schedule in the bond covenant, for its 12.25 percent portion of the parking revenue bonds debt unless and until the new city pays the City of Los Angeles for its share of the outstanding debt. The fiscal agent should be required to remit the debt payment to the City of Los Angeles in a timely fashion for repayment of the bondholders, with appropriate deductions for interest earned by the City on any pledged funds paid by the Valley to the City prior to the City's actual payment of debt service.

NON-DEBT LIABILITIES

Non-debt liabilities include workers' compensation liability resulting from litigation against the City, and arguably salary-related liability.

²¹¹ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

²¹² *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

Workers Compensation

The City of Los Angeles is self-insured for purposes of workers' compensation, and pays out approximately \$100 million annually for doctors' bills, temporary and permanent disability income support payments, and vocational training costs. Ninety seven percent of the payments are for currently inactive employees, with only 3 percent of payments for active employees.

The City of Los Angeles has proposed that the Valley pay on a monthly basis the City of Los Angeles for a proportionate share of workers' compensation costs.²¹³ The City has proposed that the allocation factor be the Valley city's share of general fund revenues that, according to the most recent estimate, would be 30.57 percent.²¹⁴

The City of Los Angeles has proposed that the Valley's obligation includes claims that were filed prior to the effective date of incorporation as well as claims filed subsequently for injuries that "at least some of which" occurred prior to the effective date.

Executive Officer's Recommendation

Consistent with the Subcommittee's recommendation, the Commission should require the new city to pay on a monthly basis a share of the City of Los Angeles workers' compensation attributable to workplace injuries that occurred prior to the effective date, as well as all claims filed prior to the effective date, where the Valley's share of these costs is equivalent to the percentage the Valley contributed to the City of Los Angeles general fund in the most recent fiscal year.²¹⁵

Salary-related Liability

The City of Los Angeles has raised the issue of liability relating to accrued vacation, overtime and sick leave of City of Los Angeles employees. In particular, the City is concerned that when employees transfer to the new city, they will en masse seek payouts for the accrued leave.²¹⁶

Executive Officer's Recommendation

Consistent with the Subcommittee's recommendation, the Commission should not impose a term and condition on this issue.

Liability Claims

Liability claims are filed against the City for numerous reasons, including personal injury, property damage, discrimination complaints, employee actions, inverse condemnations, and employee actions. The City pays liability claims from its general fund, through judgment obligation bonds, and from special funds such as the Sewer Construction and Maintenance Fund.

The City of Los Angeles has proposed that the Valley city be liable for a share of these liability claims based on the percent of general fund revenues attributable to the Valley, which is estimated by staff as approximately 30.57 percent.

²¹³ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

²¹⁴ Public Financial Management, *San Fernando Valley Proposal for Special Reorganization Supplemental Report*, February 19, 2002.

²¹⁵ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

²¹⁶ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

The City of Los Angeles has proposed that the Valley city's obligation include claims that were filed prior to the effective date of incorporation as well as claims filed subsequently for injuries that "at least some of which" occurred prior to the effective date.

Both the City and the Applicant have agreed that the City shall consult with the Valley city on the status and progress of claims and lawsuits involving the payment of \$500,000 or more.²¹⁷

Executive Officer's Recommendation

Consistent with the Subcommittee's recommendation, the Commission should require Valley city to pay on a monthly basis a share of the City of Los Angeles liability claims attributable to injuries that occurred prior to the effective date, as well as all claims filed prior to the effective date, where the Valley's share of these costs is equivalent to the percentage the Valley contributed to the City of Los Angeles general fund in the most recent fiscal year.²¹⁸ It is further recommended that the City be required to consult with the new Valley city on lawsuits involving settlements of \$500,000 or more.

²¹⁷ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

²¹⁸ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

MISCELLANEOUS PROVISIONS

REDEVELOPMENT AREAS

The City of Los Angeles has proposed that any transfer of the administration of any redevelopment area located in the detached territory be in accordance with the California Health and Safety Code sections 33214-33217.²¹⁹ In addition, the Applicant has proposed that the City of Los Angeles shall not expand the boundaries of any redevelopment project area within the Valley nor shall it establish any new redevelopment project area during the transition period without official consent of the Valley City Council.²²⁰

Executive Officer's Recommendation

The parties are required by law to comply with the provisions of Health and Safety Code sections 33214-33217 to effectuate a transfer of responsibility for redevelopment areas, and the Commission has no role in that process; therefore, it is not recommended that the Commission adopt a term and condition with respect to the transfer of redevelopment areas. The Executive Officer does recommend requiring the City of Los Angeles to obtain the consent of the new city's city council before it expands or establishes a redevelopment area within the new city during the transition period.

PROPOSITION K ASSESSMENT DISTRICT

In 1996, the voters citywide approved Proposition K—a \$25 million annual assessment for parks and related improvements. Proposition K funds can only be used for improving, constructing, and maintaining City parks, recreation facilities, childcare centers, and acquiring land for open space purposes. Land acquired for open space purposes must be owned by the City. Eighty-two percent of the assessment funds are reserved for capitol improvement projects, 15 percent for maintenance of completed acquisitions and improvements and 3 percent for incidental costs.

The assessment district is a citywide district, formally organized as a landscaping and street lighting district. The legal authority for the Proposition K assessments is the California Streets and Highways Code, Section 22500, *et seq.*, otherwise known as the Landscaping and Lighting Act of 1972. The Act requires that an annual engineer's report estimate the net amount assessable and apportion that amount among the parcels in proportion to the estimated benefits to be received by each parcel from the improvements. The engineer's report allocates benefit points to all parcels within the citywide district.

Assessments are levied annually by the City and collected by the County along with general property taxes. The rate and method of apportionment is based on the size and use of each parcel. The benefits associated with the park improvements vary depending on the land use category for a particular parcel.

Proposition K funding is designated for both specified projects and competitive grant projects. Under Proposition K, \$298.85 million of the total amount generated over 30 years is allocated to 183 specified projects. Should any project become infeasible for any reason or there are project savings, the City Council is authorized to reprogram the applicable funds during the annual

²¹⁹ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

²²⁰ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002.

assessment proceedings to other projects. In all, more than fifty of the specified projects are located within the Valley Special Reorganization area, including \$12.5 million in improvements at the Hansen Dam recreational area, \$10 million for a Los Angeles Riverfront Park, \$9 million for improvements to the Sepulveda Basin recreation area, and numerous other neighborhood park, recreational and athletic facilities. Proposition K also allocates \$143.65 million of the total amount generated over 30 years competitive grants for public agencies, City departments and nonprofit organizations.

The City of Los Angeles issued a \$14.4 million assessment bond in 2000 for ten of the Proposition K projects, two of which are located in the San Fernando Valley. The Shadow Ranch facility renovation and the Victory Vineland Childcare Center are the two Valley projects that were funded from bond proceeds. The debt is scheduled to be paid off in fiscal year 2026-27.

The City and the Applicant have agreed that the Valley property owners would continue to pay for existing debt, and that otherwise the district would be separated into two districts. The City of Los Angeles has proposed the following term and condition:

That portion of Landscaping and Lighting District No. 96-1 (Proposition K) located within the new city shall be detached from the District and formed into a new District. The assessment that will be authorized to be collected by the respective Districts annually for the remainder of the assessment (2021) shall be as follows:

District located in the remaining City of Los Angeles:	\$	per year;
District located in the Valley Special Reorganization area:	\$	per year;
District located in the Hollywood Special Reorganization area:	\$	per year; and
District located in the Harbor Special Reorganization area:	\$	per year.

The new city shall be obligated to carry out those specified projects located within its territory and otherwise administer the District in compliance with all responsibilities, powers and limitations of District 96-1. In addition to the specified projects, the District shall be authorized to allocate funds for competitive projects in accordance with Section 6 of Proposition K in the following amounts and for the following categories of projects:

District located in the remaining City of Los Angeles:

Regional Recreation/Education Facilities:	\$	per year;
Neighborhood At-Risk Youth Recreational Facilities:	\$	per year;
Youth Schools/Recreational Projects:	\$	per year;
Aquatic Upgrades:	\$	per year;
Athletic Fields:	\$	per year;
Lighting:	\$	per year;
Urban Greening:	\$	per year;
Acquisition of Parks/Natural Lands:	\$	per year.

District located in the Valley Special Reorganization area:

Regional Recreation/Education Facilities:	\$	per year;
Neighborhood At-Risk Youth Recreational Facilities:	\$	per year
Youth Schools/Recreational Projects:	\$	per year;
Aquatic Upgrades:	\$	per year:
Athletic Fields:	\$	per year;
Lighting:	\$	per year;
Urban Greening:	\$	per year;
Acquisition of Parks/Natural Lands:	\$	per year.

District located in the Hollywood Special Reorganization area:

Regional Recreation/Education Facilities:	\$	per year;
Neighborhood At-Risk Youth Recreational Facilities:	\$	per year
Youth Schools/Recreational Projects:	\$	per year;
Aquatic Upgrades:	\$	per year:
Athletic Fields:	\$	per year;
Lighting:	\$	per year;
Urban Greening:	\$	per year;
Acquisition of Parks/Natural Lands:	\$	per year.

District located in the Harbor Special Reorganization area:

Regional Recreation/Education Facilities:	\$	per year;
Neighborhood At-Risk Youth Recreational Facilities:	\$	per year
Youth Schools/Recreational Projects:	\$	per year;
Aquatic Upgrades:	\$	per year:
Athletic Fields:	\$	per year;
Lighting:	\$	per year;
Urban Greening:	\$	per year;
Acquisition of Parks/Natural Lands:	\$	per year.

Should any area described above not be approved for Special Reorganization and remain part of the City, the allocations for that area shall be added to the allocation for the City. Should division of the District into separate Districts be found unlawful, the territory in any new city shall be detached from the District, and the amount of the assessment levied within the City shall be adjusted in accordance with this term and condition.

Notwithstanding the above, property in any new city shall continue to be liable for assessment and payment of its pro rata share of any bonds issued prior to incorporation that are secured by Proposition K funds, including related bond trustee costs and costs charged by the County for collection services. The amount

that the properties in the new city shall be assessed shall be determined by the City and levied by the new city based upon the benefit points methodology currently used. The new city shall cooperate in providing to the City any information needed to determine the appropriate assessment amount. The County shall rely on the assessment figure determined by the City, shall continue to collect these fees as part of the property tax bill, and shall remit the fees directly to the City.²²¹

Government Code section 56844(u) provides the Commission with authority to transfer authority and responsibility among any cities, counties, or districts for the administration of special tax and assessment districts, including the determination of annual tax rates within authorized limits, the management of funds, the issuance of authorized bonds, the supervision of construction, etc. Section 56844(e) provides authority for the formation of a new improvement district, and section 56844(t) provides authority for the extension and continuation of any previously authorized tax or assessment. Section 56125 provides that the Commission need not comply with the principal act when the formation of a new improvement district is pursuant to a reorganization.

Executive Officer's Recommendation

Consistent with the Subcommittee's recommendation, the Commission should detach the Valley from the Proposition K assessment district, authorize the continuation of the assessment with a limit on the total amount assessed, and form a separate district in the Valley consistent with the responsibilities, powers and limitations of the current district.²²² The Valley Proposition K district would continue to be liable for a pro rata share of the outstanding bonds of the former district, and should be obligated to carry out those specified projects in the Valley, unless the new City Council determines that they are infeasible, consistent with Proposition K. Since this is a previously authorized assessment that has been and is being collected in the Valley, and no increase in the assessment limitation is contemplated, the requirements of Proposition 218 should not be triggered. The Executive Officer further recommends that the Commission adopt the format of the City's proposed term and condition, with an appropriate clarification that the voters in the Valley Special Reorganization election will not be determining fund limits and project allocations for the Harbor and Hollywood, but only for the Valley and the remaining City of Los Angeles. The Executive Officer is requesting that the parties provide the relevant fund limits and project allocations for inclusion in the resolution making determinations.

OTHER ASSESSMENT DISTRICTS

Both parties have agreed that control of assessment districts other than Landscaping and Street Lighting District number 96-1 (Proposition K) located wholly within the Valley city be transferred to the Valley city Council after the effective date of incorporation, and that assessment districts that are partially within the Valley city be detached and the portion within the Valley city shall become the responsibility of the Valley city.²²³ The City of Los Angeles has indicated that it does not believe that there are any assessment districts only partially in the Valley Special Reorganization area.

²²¹ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002. Excludes reference to the pending other special reorganization areas.

²²² *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

²²³ Valley VOTE, *Recommended Terms and Conditions*, March 6, 2002; City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

Executive Officer's Recommendation

Consistent with the Subcommittee's recommendation, the Commission should require the transfer of districts located in the Valley to the new Valley city.²²⁴

BUSINESS IMPROVEMENT DISTRICTS

Business improvements districts (BIDs) are geographic areas where special assessments are paid either by the property owners or the business owners for purposes of services such as maintenance, security and marketing programs. The assessment funds must be spent in the BID, and the funds for each BID are segregated into separate City trust accounts. The City of Los Angeles has thirty BIDs, of which ten are located in the proposed Valley city. In addition, there are three proposed BIDs located in the Valley that are still in the development process. The proposed North Hollywood Transit BID is located on the border of the proposed Valley and Hollywood special reorganization areas.

With respect to BIDs, the City of Los Angeles has proposed the following condition:

The administration of any Business Improvement District located entirely within the detached territory shall be transferred to the new city's legislative body after the effective date of incorporation. To the extent that any Business Improvement District is located partially within the new city and partially within the remaining City, that portion located within the new city shall be detached and become the responsibility of the new city.

Executive Officer's Recommendation

The Commission should require the transfer of BIDs located within the Valley to the new city. Given that the City maintains trust funds for the BIDs, it is also recommended that the City be required to transfer any unexpended BID fund balances for BIDs located within the Valley territory to the new city or its fiscal agent.

AUDIT RIGHTS

Due to the financial and service obligations contemplated by the recommended terms and conditions, the City of Los Angeles and the new city will have a financial relationship that will last for decades. Incidental to the ongoing financial obligations placed upon the new city, the new city should be entitled to audit rights to ensure the City is properly allocating to the new city its share of financial obligations.

Executive Officer's Recommendation

Consistent with the Subcommittee's recommendation, the Commission should require that the new city have audit rights with respect to the City of Los Angeles' fiscal management of all outstanding debt service and other liabilities for which the new city shall be proportionately liable as provided for in the terms and conditions, including but not limited to workers' compensation claims and legal liability claims.²²⁵ The City of Los Angeles should be required to maintain all records related to the outstanding debt service and other liabilities for a period of at least three years from the date of retirement of a debt or payment of a liability claim. The new city's right to audit shall terminate two

²²⁴ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

²²⁵ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

years after the date of retirement of a debt or payment of a liability claim. The new city shall bear all expenses related to any audits. The Executive Officer further recommends that the Commission fix all percentages to be used for allocation of any outstanding debt or liabilities to alleviate the need for audit rights with respect to the percentages. Any objections to the percentage allocations should be raised with the Commission before it makes its final determinations.

The Executive Officer recommends that the Commission also require that the new city have audit rights with respect to transition period service costs and any revenue collected by the City of Los Angeles within the Valley during fiscal year 2002-2003 and during the remainder of the transition period. The City of Los Angeles should be required to maintain all records of such revenues for a period of at least three years from the date when the transition period ends. The new city's right to audit shall terminate two years after the last day of the transition period. The new city shall bear all expenses related to any audits.

STANDARD PROVISIONS

ELECTED REPRESENTATIVES

Government Code section 56852.7 requires that the resolution making determinations specify that the new Valley city have a city council of an even number of members, with at least twelve members elected by district, and a mayor who shall be a voting member of the council, elected at large. Government Code section 56852.7 also requires that the Commission set the initial boundaries for the districts and requires that no district shall exceed 100,000 residents.

The Commission's consultants, Professor William A.V. Clark of the University of California at Los Angeles Geography Department and Patrick D. Quinlan of PDQ GeoDemographics have prepared district boundaries creating fourteen council districts, which have been presented and discussed at three public hearings. Their *Valley Districting Report* is accompanies this Report and is incorporated herein. The Applicant has requested, and the Cortese-Knox Act provides for, the holding of city council elections at the same time as the election on the question of special reorganization.²²⁶

Government Code section 34880 provides that the initial city council members elected by district shall hold office until the next municipal election. At that election, the members elected by the even-numbered districts shall hold office for four years and the members elected by odd-numbered districts shall hold office for two years. Thereafter, the term of office is four years for all members.

Executive Officer's Recommendation

Consistent with the Subcommittee's recommendation, the following condition is recommended:

Pursuant to Government Code section 56852.7, the legislative body of the Valley city shall consist of an even number of members, with at least twelve council members elected by districts, as defined in Government Code section 34871, and a mayor who shall be a voting member of the council, elected at large. The Commission has established the initial boundaries for fourteen districts, consistent with the requirements of Government Code section 56852.7. The first election of City Council members and the mayor shall be held concurrently with the election on the question of special reorganization. As provided for in Government Code section 34880, the City Council members shall hold office until the next municipal election. At that election, the members elected by the even-numbered districts shall hold office for four years and the members elected by odd-numbered districts shall hold office for two years. Thereafter, the term of office is four years for all members. The mayor shall hold office for four years.²²⁷

The Executive Officer further recommends that the Commission adopt the district boundaries proposed in the *Valley Districting Report*.

APPOINTIVE POSITIONS

In California incorporations, it is standard practice for the resolution making determinations to list certain officials of the new city as being appointive rather than elected positions. Such a provision appears necessary in the case of the City Clerk and Treasurer, as the law provides that these

²²⁶ Government Code section 56852.5.

²²⁷ *Special Reorganization of the San Fernando Valley Staff Report on Terms and Conditions*, approved by the Subcommittee on Findings, Terms and Conditions on March 11, 2002.

positions be either appointive or elective.²²⁸ The resolutions of other LAFCOs frequently list the City Manager and City Attorney positions as appointive rather than elective.

It is not necessary to list all appointive positions at the new city, as many of these positions are required by statute to be appointive rather than elective. For example, in a general law city, the statute authorizes the city council to appoint a city attorney, a chief of police, a superintendent of streets or other subordinate officers.²²⁹

Executive Officer's Recommendation

The Commission should specify that the City Manager, City Clerk and City Treasurer will be appointed by the City Council of the new city.

ORDINANCE ADOPTION

The default provisions of the Cortese-Knox Act require that a newly incorporated city comprised of territory formerly unincorporated adopt all previously applicable county ordinances of the City of Los Angeles for the first 120 days of the new city's existence or until the city council adopts its own ordinances.²³⁰ The code requires that enforcement of these laws be provided by the new city, but may be provided by the county during the transition period if enforcement services are provided by the county during that period.²³¹

In some past incorporation cases, the resolution making determinations has specifically required the new city to adhere to the existing general plan and zoning ordinances of the county until the new city has adopted its own general plan.

Since the proposed Valley Special Reorganization area is not unincorporated territory, adoption of the county's ordinances would not make sense. The Applicant and the City agree that that Commission should require the new city to adopt the relevant ordinances of the City of Los Angeles for this time period.

Executive Officer's Recommendation

The Commission should require the new City Council to adopt, immediately following its organization and prior to performing any other official act, an ordinance providing that all City of Los Angeles ordinances remain in full force and effect as city ordinances for a period of 120 days or until the City Council enacts ordinances superceding them, whichever occurs first.

DEVELOPMENT PERMITS

The City of Los Angeles has proposed the following term relating to development permits:

Any conditions of approval (including, without limitation, mitigation measures adopted pursuant to the California Environmental Quality Act) imposed by the City on any discretionary project approved prior to the effective date of incorporation shall be valid and enforceable between the applicant and the new city in which the development is located. The new city shall indemnify and hold the City harmless from any claims or actions based on the new city's failure to fulfill or enforce any of

²²⁸ Government Code section 36511.

²²⁹ Government Code section 36505.

²³⁰ Government Code section 57376(a).

²³¹ Government Code sections 57376(a), 57384.

the terms of the permit or conditions of its approval, including, without limitation, terms or conditions related to environmental mitigation.²³²

Executive Officer's Recommendation

The Executive Officer recommends against imposing this condition. The Commission's terms and conditions should not directly regulate land use, property development or subdivision requirements.²³³ The validity of permits issued by the City of Los Angeles, and the responsibility of the parties in relation thereto are determinable by statutes and case law.

TAX AUTHORIZATION

It is standard practice in California incorporations for the resolution making determinations to authorize the new city to continue levying the same taxes and fees. The Commission has the discretion to impose such a term and condition, however, the statute granting that authority pre-dates Proposition 218.²³⁴

In 1996, California voters approved Proposition 218, which requires local governments to obtain voter approval (majority or two-thirds) for all general and special taxes. In addition, Proposition 218 places stricter requirements on the approval and use of assessments and fees.

The Legislative Counsel has issued two opinions that conclude that the provisions of Proposition 218 would prevail over the provisions of the Cortese-Knox Act with regard to the proposed imposition of a tax, assessment or fee as a condition of annexation. In the opinion of the Legislative Counsel, the imposition of a City's local taxes, assessments, fees, and charges to a territory approved for annexation must first be approved by a vote of those in the annexed territory because the tax, assessment or fee had not been previously imposed in that territory.²³⁵ Proposition 218 requires that the voters must approve any increases in general taxes by a majority vote and special taxes by a two-thirds vote.²³⁶ To impose a benefit assessment, a public agency must prepare an engineer's report which demonstrates the special benefits derived by the properties proposed to be assessed and conduct a protest hearing in which the votes of property-owners are weighted in accordance with the proportional financial obligation of the affected properties.²³⁷ Most fees and charges must also survive a protest hearing and be approved by either a majority of the property owners affected or a two-thirds vote of the electorate.²³⁸

Subsequently, the Attorney General released a formal opinion which concluded that "if LAFCO conditions approval of a change of organization or reorganization upon a requirement that the subject agency levy or fix and collect a previously established and collected tax, assessment or fee on parcels being annexed to the agency, the voter approval requirements of Proposition 218 do not apply."²³⁹ The opinion reasoned that the protest procedures in the Cortese-Knox Act provide for voter approval, and Proposition 218 was not intended to apply to LAFCO actions.

²³² City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

²³³ Government Code section 56844.

²³⁴ Government Code section 56844(t).

²³⁵ Legislative Counsel Opinion Nos. 11267 (May 15, 1997), 25418 (March 17, 1998).

²³⁶ Cal. Const., Art. XIII C.

²³⁷ Cal. Const. Art. XIII D, § 4.

²³⁸ Cal. Const., Art. XIII D § 6.

²³⁹ 82 Ops. Cal. Atty. Gen 180.

Seven California incorporations have been processed since the passage of Proposition 218, all of which have conditioned approval on the imposition of previously established and collected taxes, fees and assessments without requiring further compliance with Proposition 218. None has been challenged on the legal grounds of violation of Proposition 218. These incorporations have included authorization in the resolution making determinations of both general and special taxes. The annexations discussed in the Legislative Counsel and Attorney General opinions differ from the incorporations, however, because annexations involve the imposition of these taxes, fees and assessment in territory where they were not previously imposed and the property owners and/or voters had not previously approved their imposition. In the case of incorporations or the proposed Valley Special Reorganization, the taxes, fees and assessments have already been approved by and imposed upon the subject territory. Thus, it could be argued that they are not new taxes, fees or assessments, and not subject to Proposition 218.

Executive Officer's Recommendation

The Commission should authorize the new city to continue to levy all previously authorized and collected charges, fees, assessments and general or special taxes previously collected by the City of Los Angeles, except as prohibited by law.

DEVELOPMENT AGREEMENTS

Most California incorporation resolutions include a provision requiring the new city to abide by existing development agreements in the territory. This is a statutory requirement for incorporations of previously unincorporated territory,²⁴⁰ but there is no similar statutory requirement for special reorganization. Nonetheless, such a provision protects the public, and real estate and business owners in areas subject to development agreements.

The City of Los Angeles has proposed that the resolution making determinations include a provision requiring the new city to abide by existing development agreements:

The new city shall succeed to the benefits and be bound by the obligations and duties of the City with respect to the Development Agreements listed below, and the City shall be relieved of any obligation under those Agreements. The new city shall indemnify and hold the City harmless from any claims or actions based on the new city's failure to fulfill or enforce any of the terms of the Development Agreement or conditions of its approval, including, without limitation, terms or conditions related to environmental mitigation. The Development Agreements are [list of agreements to be supplied by the City.]²⁴¹

Executive Officer's Recommendation

The Commission should adopt the City's proposed condition.

PROVISIONAL APPROPRIATIONS LIMIT

The Commission must establish a provisional appropriations limit for the new city. This limit is temporary, and will only affect the new city during its first two years. The new city is required by

²⁴⁰ Government Code section 65865.3.

²⁴¹ City of Los Angeles, *Special Reorganization of the San Fernando Valley, Harbor, and Hollywood—Objections to Recommendations of the LAFCO Subcommittee on Terms and Conditions*, April 2, 2002.

statute to submit to its voters a permanent appropriations limit in the first municipal election following the first full fiscal year of operation.²⁴²

According to Government Code section 56842.6, the Commission may consider anticipated revenues, population growth and cost of living growth forecasts in setting the provisional appropriations limit. The CFA estimated that the Valley area would receive \$1,068.9 million in general and special purpose fund revenues in the fiscal year 2000-01. The objective is to set a provisional appropriations limit that should accommodate the new city through the 2004-05 fiscal year.

The California Department of Finance has projected annual population growth in Los Angeles County at a 1.6 % rate between 2000 and 2005.²⁴³ The Department's economists have forecast a 1.56 percent annual increase in the Los Angeles cost of living (CPI-U) between fiscal year 2000-01 and 2004-05. Taken in combination, the forecasts imply that the Commission should set the Valley provisional appropriations limit at a minimum of \$1.213 billion. This minimum amount is anticipated to accommodate growth expected to occur before the new city would have the opportunity to establish a permanent appropriations limit.

Executive Officer's Recommendation

The Commission should set a provisional appropriations limit of \$1.213 billion.

NAME OF THE NEW CITY

The Applicant has proposed that the voters be offered several options from which to choose the new city's name.

Government Code section 57101(d) provides that voters may "express their preference" on the name for the new city "if the petition so requests."

This approach has been used in other California incorporations. Most recently, Truckee and Laguna Woods voters were offered two options for the city name on the ballot. Lake Forest voters were offered three options.

Executive Officer's Recommendation

The Commission's resolution include the following condition:

Pursuant to Government Code Section 57101(d), the voters' preference for a name for the new city shall be included on the ballot and the name shall be chosen from the following five (5) choices: Camelot, Mission Valley, Rancho San Fernando, San Fernando Valley and Valley City.

GEOGRAPHIC BOUNDARIES

The Commission is charged with the task of reviewing the proposed geographic boundaries to ensure that the boundaries are definitive and certain.²⁴⁴

For the most part, the proposed boundaries of the Valley Special Reorganization area are logical and appropriate. The boundaries on the western, northern and most of the eastern borders of the territory are the existing boundaries of the City of Los Angeles. The proposed boundary on the

²⁴² Government Code section 56842.6.

²⁴³ State of California, Department of Finance, *Interim County Population Projections*. Sacramento, California, June 2001.

²⁴⁴ Government Code section 56375(n).

southern border of the territory is Mulholland Drive, on top of the ridge of the Santa Monica Mountains. This proposal defines the territory along a natural geological feature, which is commonly considered to be the southern border of the San Fernando Valley.

The southeastern boundary includes a primarily residential area of Cahuenga Pass (see map on page 8). This area has also been included in the Hollywood Vote special reorganization proposal. Hollywood Vote proponents argue that the area is traditionally considered part of the Hollywood area. Area homeowners have requested that the area be removed from the Valley Special Reorganization area. The Valley and Hollywood proponents have jointly proposed to divide this area.

Removing the eastern Cahuenga Pass area from the proposed Valley Special Reorganization area had only a marginal effect on the fiscal mitigation payment estimate for the San Fernando Valley.

The Commission has also received a request from Universal Studios to exclude two parcels from the Hollywood Special Reorganization area and include those parcels in the Valley Special Reorganization area.²⁴⁵ Universal Studios has requested this modest boundary change in order to have all of its non-county properties under the jurisdiction of one municipality. Universal Studios is currently within County unincorporated territory and City of Los Angeles territory. As the special reorganization boundaries were originally drawn, portions of Universal Studios were in both the Valley and Hollywood, as well as unincorporated County territory. The subject parcels are uninhabited. Modification of the boundary had a negligible effect on the fiscal mitigation payment estimate.

Executive Officer's Recommendation

The Commission should approve the boundaries of the Valley Special Reorganization area as generally set forth in the map on page 8 of this Report, which excludes the eastern portion of the Cahuenga Pass area from the San Fernando Valley territory and includes the two Universal Studios parcels. The full legal description of the Valley Special Reorganization boundaries are set forth in the resolution making determinations.

SPHERE OF INFLUENCE

The Commission has the option of defining the new city's sphere of influence in the resolution making determinations, or deferring the decision until the new city incorporates. If the Commission chooses to defer this decision, it must determine the sphere of influence within the first year following incorporation of the new city.²⁴⁶

The City of Los Angeles sphere of influence does not currently extend beyond the city limits.

Executive Officer's Recommendation

The Commission should defer consideration of the sphere of influence until after a successful incorporation.

²⁴⁵ Latham & Watkins, *Universal Studios, Inc.'s Request to Modify New City Boundary Lines*, February 6, 2002.

²⁴⁶ Government Code section 56426.5

APPENDICES

EXHIBIT A: PROPOSED SAN FERNANDO VALLEY CITY LEGAL DESCRIPTION²⁴⁷

From the point commencing where the City of Los Angeles most northerly boundary intersects with the eastern most edge of the Golden State Freeway and following on the City of Los Angeles boundary on a generally easterly and southerly direction as the boundary follows along the Los Angeles County Boundary, Glendale City Boundary and the Burbank City Boundary until the boundary intersects the western most edge of Barham Boulevard; thence following along the western most edge of Barham Boulevard in a southerly direction to the southern line of the Rancho Providencia Tract; thence westerly and northerly along the Rancho Providencia Tract to the City of Los Angeles and Los Angeles County Boundary at the eastern edge of Universal Studios L.A. County property; thence following the eastern most Universal Studios Los Angeles County boundary in a northerly direction to northern most edge of Universal Studios L.A. County boundary; thence following along the existing City of Los Angeles boundary in a westerly, southerly and then a easterly direction to its intersection with the northern edge of Coral Drive; thence following along the northern edge of Coral Drive in an easterly direction to its intersection with the City of Los Angeles and Los Angeles county boundary at the southern most corner of Universal Studios L.A. County property; thence following the south eastern most Universal Studios Los Angeles County boundary, in a northerly direction to the southern most corner of Lot 117 of Tract No. 7354; thence following along the universal Studio boundary in a generally easterly direction to the western most edge of Barham Boulevard; thence following along the western most edge of Barham Boulevard in a south westerly direction to its intersection with the western most edge of the Hollywood Freeway, thence following along the western most edge of the Hollywood Freeway in a south easterly direction to its intersection with the southernmost edge of Mulholland Drive; thence following along the southern most edge of Mulholland Drive in a westerly direction to its western most intersection with the Topanga State Park boundary; thence following along the Topanga State Park boundary in a generally westerly direction to its intersection with the City of Los Angeles boundary; thence following the City of Los Angeles boundary in a north westerly direction along the Los Angeles County boundary, Calabasas City boundary and Hidden Hills City boundary to the point where the City of Los Angeles boundary first abuts the Ventura County boundary; thence following the City of Los Angeles boundary in a northerly direction to its most north western point; thence following the City of Los Angeles Boundary in an easterly direction until such boundary intersects with the starting point at the Golden State Freeway.

247 The above legal description was submitted to LAFCO by Valley Vote. This description does not meet the State Board of Equalization requirements. Once the Valley boundary is finalized by the Commission, Valley Vote will submit a legal description that meets the State Board requirements.

EXHIBIT B: SAN FERNANDO VALLEY FACILITY-RELATED ASSETS

This asset compilation includes facility-related assets, and does not include assets that are not related to a facility such as streets, storm drains, and databases. The Applicant's proposal is that the facilities, along with all furnishings, fixtures, rolling stock and other equipment contained therein, would vest in the Valley city.²⁴⁸ The City of Los Angeles has submitted a list of assets in the San Fernando Valley with issues noted for certain facilities.²⁴⁹

Facilities Retained by the City of Los Angeles

The City of Los Angeles shall continue to own the following assets; however, the City shall provide transition period services to the San Fernando Valley with these facilities.

San Fernando Valley Fire Stations:

Fire Station #70 9861 Reseda Blvd. 91324
Fire Station #88 5101 N. Sepulveda Blvd. 91403
Fire Station #97 8021 Mulholland Dr. 90046
Fire Station #99 14145 Mulholland Dr. 91423

Valley Public Parks

Beilenson Park, 17015 Burbank Blvd. 91316
Chatsworth Reservoir Lake Manor Dr/Woolsey Cyn Rd. 91311
El Paseo Cahuenga Park, 3300 Cahuenga Blvd. 90068
Hansen Dam Recreational Area and Aquatic Center, 11770 Foothill Blvd. 91342
Hjelte Sports Center, Burbank and Woodley Ave. 91411
Jensen Filtration Plant, Balboa and Woodley Ave. 91344
Lake View Terrace Rec. Center, 11075 Foothill Blvd. 91342
Laurel Canyon Park, 8260 Mulholland Dr. 90046
Libbit Park, 5101 Libbit Ave. 91436
N. Hollywood Recreation Center, 11430 Chandler Blvd. 91601
Sepulveda Basin Recreation Area, Woodley Ave. & Victory Blvd. 91411
Sepulveda Recreation Center, 8801 Kester Ave. 91405
Slavin (Jaime Beth) Park, Strathern and Whitsett (sth) 91352
Tujunga Greenbelt & Pedestrian Bridge 91042
Tujunga Infiltration Galleries, 91042
Van Norman Lakes Reservoir, Balboa & Woodley Ave.
Wilacre Park, Adjacent Coldwater Canyon Park 90210
Woodley Ave. Park, 6350 Woodley Ave. 91436

Miscellaneous Valley Municipal Facilities

Training Facility, 12001 Blucher Ave. 91344 (owned by DWP)
East Valley Refuse Collection Yard, 9701 San Fernando Rd. 91335
West Valley Refuse Collection Yard (two properties), 8840 Vanalden Ave. 91324
Asphalt Plant #2, 12251 Sherman Way 91605

²⁴⁸ Valley Vote. *Recommended Terms and Conditions*. Los Angeles: Valley Vote, March 6, 2002.

²⁴⁹ City of Los Angeles. *Assets in the San Fernando Valley*. Email correspondence from Deputy Mayor Felipe Fuentes to LAFCO Executive Officer, March 28, 2002.

Consensus Facilities Used Under Lease Arrangements

The following assets were identified by the City of Los Angeles as facilities that are used under a lease or permitting arrangement. If the lease permits, these facilities would transfer to the new city.

Valley Public Parks Leased from the City of Los Angeles Department of Public Works

Lanark Recreation Center, 21816 Lanark St. 91304

Delano Park, 15100 Erwin St. 91606

Hartland Mini Park, Hartland/Woodman

Kittridge Mini-Park, Kittridge/Greenbush 91401

Valley Facility Leased from Private Party

Mid-Valley Sr. Citizen Center, 14450 Valerio St. 91406

VN Adjudication, 14553 Delano St., #212

Valley Facility Licensed by Los Angeles Unified School District

Cleveland High School Pool, 9120 Vanalden Ave. 91335

Consensus Assets with Outstanding Debt Service

Both the Applicant and the City of Los Angeles have indicated agreement that the following assets would transfer from the City of Los Angeles to a San Fernando Valley city once the associated debt has been defeased or accepted by the new city, if special reorganization is approved.

San Fernando Valley Police Stations:

Foothill Police Station 12760 Osborne St. 91331

North Hollywood Police Station 11640 Burbank Blvd. 91601

New North East Valley Police Station

Consensus Assets

Both the Applicant and the City of Los Angeles have indicated agreement that the following assets would transfer from the City of Los Angeles to a San Fernando Valley city if special reorganization is approved.

San Fernando Valley Police Stations:

Devonshire Police Station 10250 Etiwanda Ave. 91325

Van Nuys Police Station 6240 Sylmar Ave. 91401 (City retains use rights for booking facility)

West Valley Police Station 19020 Vanowen St. 91335

San Fernando Valley Fire Stations:

Fire Station #8 11351 Tampa Ave. 91326

Fire Station #18 12050 Balboa Blvd. 91344

Fire Station #24 9411 Wentworth St. 91040

Fire Station #28 (New) 11641 Corbin Ave. 91326

Fire Station #39 14415 Sylvan St. 91401

Fire Station #60 5320 Tujunga Ave. 91601

Fire Station #72 6811 DeSoto Ave. 91303

Fire Station #73 7419 Reseda Blvd. 91335
Fire Station #74 7777 Foothill Blvd. 91402
Fire Station #75 15345 San Fernando Mission Rd. 91345
Fire Station #76 3111 Cahuenga Blvd. 90068
Fire Station #77 8943 Glenoaks Blvd. 91352
Fire Station #78 4320 Coldwater Cyn. Ave. 91604
Fire Station #81 14123 Nordoff St. 91331
Fire Station #83 5001 Balboa Blvd. 91316
Fire Station #84 5340 Canoga Ave. 91364
Fire Station #86 4305 Vineland Ave. 91602
Fire Station #87 10241 Balboa Blvd. 91343
Fire Station #89 7063 Laurel Cyn Blvd. 91605
Fire Station #90 7921 Woodley Ave. 91406
Fire Station #91 14430 Polk St. 91342
Fire Station #93 19059 Ventura Blvd. 91356
Fire Station #96 21800 Marilla St. 91311
Fire Station #98 13035 Van Nuys Blvd. 91331
Fire Station #100 6751 Louise Ave. 91406
Fire Station #102 13200 Burbank Blvd. 91401
Fire Station #103 18143 Parthenia St. 91325
Fire Station #104 8349 Winnetka Ave. 91306
Fire Station #105 6345 Fallbrook Ave. 91367
Fire Station #106 23004 Roscoe Blvd. 91304
Fire Station #107 20225 Devonshire St. 91311

Valley Public Libraries

Platt Library, 23600 Victory Blvd, 91367
Lakeview Terrace Library, 12002 Osborne St., 91342
Canoga Park Library, 20939 Sherman Way, 91303 (scheduled to relocate to this location in Fall 2003)
Canoga Park Library, 7260 Owensmouth Ave. 91303
North Hollywood Regional Lib., 5211 Tujunga Ave. 91601
Pacoima Library, 13605 Van Nuys Blvd. 91331
Panorama City Library, 14345 Roscoe Blvd. 91402
Sherman Oaks Library, 14245 Moorpark St. 91423
Studio City Library, 4400 Babcock Ave. 91604
Sun Valley Library, 7935 Vineland Ave. 91352
Sunland-Tujunga Library, 7771 Foothill Blvd. 91042
Sylmar Library, 13059 Glenoaks Blvd. 91342
Valley Plaza Library, 12311 Vanowen St. 91605
Van Nuys Library, 6250 Sylmar Ave. 91401
Chatsworth Library, 21052 Devonshire St. 91311
Encino-Tarzana Library, 18231 Ventura Blvd. 91356
Granada Hills Library, 10640 Petit Ave. 91344
Mid-Valley Reg. Library & Bookmobile, 16244 Nordoff St. 91343
Northridge Library, 9051 Darby Ave. 91330
Porter Ranch Library, 11371 Tampa Ave. 91326
West Valley Regional Library, 19036 Vanowen St. 91335

Woodland Hills Library, 22200 Ventura Blvd. 91364

Valley Public Parks

Aliso Canyon Park, Rinaldi St. 91326 (Parties were unsure about how to categorize this facility)

Alizondo Drive Park, Mulholland and Alizondo 91364

Andres Pico Adobe, 10940 Sepulveda Blvd. 91345

Balboa Park, 17015 Burbank Blvd. 91316

Bee Canyon Park, 13150 Sesnon Blvd. 91344

Bell Canyon Park, North of Westhills R.C. 91307

Blythe St. Park, 14740 Blythe St. 91402

Mae Boyar Recreation Center, 23936 Highlander Rd. 91307

Brand Park, 15174 San Fernando Mission Rd 91345

Branford Recreation Center, Branford Street 91331

Browns Creek Park, Browns Canyon Rd. 91311

Campo de Cahuenga, 3912 Lankershim Blvd. 91604

Canoga Park Sr. Citizen Center, 7326 Jordan Ave. 91303

Carey Ranch, Edgecliff and Osceola St. 91342

Castle Peak Park, 24220 ½ Clarington 91304

Chase Park, 22525 Chase St. 91304

Chatsworth Oaks Park, 9301 Valley Circle Blvd. 91311

Chatsworth Park North, 22300 Chatsworth St. 91311

Chatsworth Park South, 22360 Devonshire St. 91311

Cohasset-Melba Park, Cohasset St. and Melba Ave. 91307

Coldwater Canyon Park, 12601 Mulholland Dr. 90210

Corbin Canyon Park Site

De Garmo Park, Armita St. & Golden State Fwy 90028

Dearborn Park, 17141 Nordoff St. 91325

Devonshire/Arleta Park, Arleta Ave. & Devonshire St. 91331

Devonwood Park, 10230 Woodman Ave. 91345

Eddeston Park, 11820 Reseda Blvd. 91335

Encino Community Center, 4935 Balboa Blvd. 91316

Encino Park, 16953 Ventura Blvd. 91316

Erwin Park, Erwin St. & Ethel Ave. 91401

Fehlhaber-Houk Park, 9521 Tujunga Canyon Blvd. 91042

Fernangeles Recreation Center, 8851 Laurel Canyon 91352

Finn Park, Foothill Blvd./ Machrea St. 91042

Granada Hills Recreation Center, 16730 Chatsworth St. 91344

Haines Canyon Park, South Terminus Haines Cyn Ave. 91042

Humphrey Mem. Park, 12560 Fillmore St. 90046

Jessie Owens Mini-Park, 7100 White Oak Ave. 91335

Jessup (Roger) Park, 12467 W. Osborne 91331

Kagel Canyon Park, 11435 Kagel Canyon St. 91342

Knapp Ranch Park, 25000 Kittridge 91307

Knapp Ranch Park West, Wooded Vista & Twisted Oak Dr. 91307

Lazy J. Ranch Park, 23751 Ingomar St. 91304

Limekiln Park, 10300 Limekiln Canyon Rd. 91326

Little Landers Park, 10116 Commerce Ave. 91042

Louise Park, 7140 Louise Ave. 91406

Manson Park, 10500 Manson Ave. 91311
 McGroarty Park & Rec. Center, 7570 McGroarty Ter. 91042
 Moonshine Canyon Park, W. of Tampa Ave, S. of Sesnon 91326
 Moorpark Park, 12061 Moorpark St. 91607
 Northeast Valley Multipurpose Sr.Ctr., 11300 Glenoaks Blvd. 91331
 N. Hollywood Administration and Service Center, 11430 Chandler Blvd. 91601
 Northridge Community Center, 18300 Lemarsh Street 91324
 O'Melveny Park, 17300 Sesnon Blvd. 91344
 Orcutt Ranch Horticulture Center, 23600 Roscoe Blvd. 91304
 Pacoima/David M. Gonzales, 10943 Herrick Ave. 91331
 Panorama Recreation Center, 8600 Hazeltine Ave. 91402
 Parthenia Park, 21444 Parthenia St. 91304
 Pasko Park, 7570 McGroarty Ter. 91042
 Paxton Park & Rec. Center, 10731 Laurel Canyon Blvd. 91331
 Porter Ranch, Vicinity of Sesnon & Reseda 91326
 Porter Ridge Park, Vicinity of Sesnon & Reseda 91326
 Quimby (John) Park, 7008 Desoto Ave. 91303
 Reseda Recreation Center, 18411 Victory Blvd. 91335
 Reseda Senior Multipurpose Center, 18411 Victory Blvd. 91335
 Ritchie Valens Recreation Center, 10731 Laurel Canyon Blvd. 91331
 Roscoe/Valley Circle Park, Valley Circle & Roscoe Blvd. 91307
 Runnymede Park & Rec. Center, 20200 Runnymede St. 91306
 Serrania Ave. Park, 20864 Wells Dr. 91364
 Shadow Ranch, 22633 Vanowen St. 91304
 Sherman Oaks Castle Park, 4989 N. Sepulveda Blvd. 91403
 Stetson Ranch Park, 13877 Glenoaks Blvd. 91352
 Stonehurst Recreation Center, 9901 Dronfield St. 91352
 Stoney Point Park, Topanga Canyon/Simi Valley 91311
 Strathern Park, North Strathern and Whitsett 91605
 Strathern Park West, 12541 Saticoy 91605
 Studio City Mini-Park, 12505 Moorpark St. at Whitsett 91604
 Studio City Recreation Center, 12621 Rye Street 91604
 Sun Valley Recreation Center, 8133 Vineland Ave. 91252
 Sunland Recreation Center, 8651 Foothill Blvd. 91040
 Sunland Sr. Citizen Center, 8640 Fenwick Ave. 91040
 Sylmar Park, 13109 Borden Ave. 91342
 Taper Intergenerational Center, Woodley Ave. & Victory Blvd. 91411
 Tarzana Recreation Center, 5655 Vanalden Ave. 91356
 Taxco Trails Park, 23367 Inogmar St. 91304
 Valley Plaza Recreation Center, 12240 Archwood St. 91605
 Valley Therapeutic Rec. Center, 11430 Chandler Blvd. 91601
 Valley Village Park, 170 Fwy & Burbank/Chandler 91601
 Van Nuys Recreation Center, 14301 Vanowen St. 91405
 Van Nuys/Sherman Oaks Park, 14201 Huston St. 91423
 Van Nuys/Sherman Oaks Sr. Center, 5040 Van Nuys Blvd. 91423
 Verdugo Hills Swimming Pool, 10654 Irma Ave. 91042
 Verdugo Mountain Park, E. of Sunland, S of La Tuna Cyn Rd. 90028
 Victory/Vineland Park, 11100 Victory Blvd. 91505

Viking Park, Viking & Nau 91326
Villa Cabrini Park, 9401 Villa Cabrini Dr. West 91504
Warner Ranch Park, 5800 Topanga Canyon Dr. 91367
Weddington Park (north), 10844 Acama Dr. 91602
Weddington Park (south), 10800 Valley Heart Drive 91602
West Valley Park 6731 Wilbur Ave. 91335
West Hills Recreation Center, Valley Circle Blvd. 91307
Wilbur-Tampa Park 12001 Wilbur Ave. 91326
Wilkinson Multipurpose Sr. Citizen Center, 8956 Vanalden Ave. 91324
Winnetka Recreation Center, 8401 Winnetka Ave. 91306
Woodbridge Park, 11240 Moorpark St. 91602
Woodland Hills Recreation Center, 5858 Shoup Ave. 91367
Zelzah Park, 11690 Zelzah Ave. 91344

Valley Animal Shelters

West Valley Animal Shelter (3 Bldgs.), 20655 Plummer St. 91311
East Valley Animal Shelter, 13131 Sherman Way 91605
Northeast Valley Shelter (new shelter to be built)

Miscellaneous Valley Municipal Buildings

Van Nuys Building & Safety Bldg., 14425 Erwin St. 91401
Van Nuys Municipal Building, 14410 Sylvan St. 91401
Van Nuys Municipal Bldg – Finance, 14401 Erwin St. 91401
Braude Center (new facility)
West Valley Municipal Building, 19040 Vanowen St. 91335
Sunland-Tujunga Municipal Bldg., 7747 Foothill Blvd 91042
Canoga Park Youth Art Center, 7222 Remmet Ave. 91303
Lankershim Arts Center, 5108 Lankershim Blvd. 91601
Madrid Theatre, 21622 Sherman Way 91303
McGroarty Arts Center, 7570 McGroarty Ter. 91042
Sun Valley Youth Arts Center, 8672 Sunland Blvd. 91352
Sunland-Tujunga – Office Bldg., 9401 Wentworth St. 91040
Sunland-Tujunga – Gas Building, 9401 Wentworth St. 91040
Sunland-Tujunga – Garage Building, 9401 Wentworth St. 91040
North Hollywood Repair Facility, 12201 Sherman Way 91605

Miscellaneous Valley Municipal Facilities

N. Hollywood-Studio City Street Maintenance, 10811 Chandler Blvd. 91601
Reseda/Woodland Hills Street Maintenance, 6015 Baird Ave. 91356
Canoga Park Dist. Street Maintenance Yard (two properties), 7453 Canoga Ave. 91304
Northridge Street Maintenance Yard, 8820 Vanalden Ave. 91324
Granada Hills-Street Maintenance Yard, 10210 Etiwanda Ave. 91325
Raymer Street Yard, 14832 Raymer Street 91405
CVCS, 12225 Sherman Way 91605
Parking Enforcement Valley Area, 12544 Satcoy St. 91605
Reseda Parking Facility #624, 7222 Baird Ave. 91335
Reseda Parking Facility #622, 7131 Canby Ave. 91335
Reseda Parking Facility #621, 7120 Baird Ave. 91335

North Hollywood Parking Facility#627, 11231 Magnolia Blvd. 91601
Canoga Park Parking Facility #674, 7218 Jordan Ave. 91303
Canoga Park Parking Facility #618, 7134 Remmet Ave. 91303
Van Nuys Parking Facility #630, 14517 Erwin Ave. 91401
Parking Lot #630A, 14444 Sylvan Ave. 91401
Canoga Park Parking Facility #644, 7219 Remmet Ave. 91303
Reseda Parking Facility #640, 7130 Darby Ave. 91335
Canoga Park Parking Facility #687, 7141 Remmet Ave. 91303
North Hollywood Parking Facility, 11320 Chandler Blvd. 91601
Off Street Parking #712, 7246 Baird Ave. 91335
Off Street Parking #704, 7128 Jordan Ave. 91303
Lot 725, 7117 Remmet St. 91303
Parking Lot #602, 11320 Chandler Blvd

EXECUTIVE OFFICER FISCAL ALLOCATIONS: TECHNICAL NOTES

Revenues

In general, the Executive Officer's revenue estimates took the Comprehensive Fiscal Analysis (Jan. 2002) and the supplemental fiscal analysis (February 2002) as a starting point. The Executive Officer adjusted the Feb. 2002 revenue estimates by a factor of 99.943 percent to account for the addition of the Western Cahuenga pass Neighborhood. This factor represents the percent increase in the population of the Valley from adding the Western Cahuenga area back into the territory.

1. **Population Based Revenues:** Population-based revenues such as the Proposition A Local Transit Assistance Fund were allocated based on the Valley population share of 36.53 percent estimated by the County of Los Angeles Urban Research Division (URD) on the basis of the 2000 Census of Population and Housing.
2. **Property Tax:** The property tax was allocated using a fiscal year 2000-01 allocation factor prepared by the County of Los Angeles Auditor-Controller, with a minor adjustment. The allocation factor was estimated by the Auditor-Controller for the San Fernando Valley area less the Cahuenga Pass neighborhood. Subsequently, the Executive Officer has recommended that the western portion of this neighborhood be included in the Valley special reorganization area. Public Financial Management estimated that an additional \$279,888 in property taxes is generated in the Western Cahuenga Pass area. The Executive Officer estimate adjusts the Auditor-Controller estimate to include estimated property tax in Western Cahuenga. The current property tax estimate is based on the fiscal year 2000-01 tax roll, with reductions for the Community Redevelopment Agency (CRA) revenues associated with the major redevelopment projects located in the Valley territory. The final estimate of the fiscal mitigation payment and property tax allocation factor will be the official property tax estimate being prepared by the Auditor-Controller with the net reduction in CRA revenues for all redevelopment projects located in the Valley.
3. **Vehicle License Fee:** The vehicle license fee was allocated under the City of Los Angeles current revenues to the San Fernando Valley based on the Valley population share of 36.53 percent estimated by the County of Los Angeles Urban Research Division (URD). The vehicle license fee boost is additional revenue that would accrue to the San Fernando Valley during its first eight years due to a funding formula that provides that new cities' population is calculated based on the number of registered voters. The formula estimates population by multiplying the number of Valley registered voters by a factor of three. In the case of the Valley, this estimate exceeds the URD population estimate resulting in additional vehicle license fee revenues. The CFA calculations were based on March 1999 data on the number of registered voters (527,084), whereas the Executive Officer estimate is based on March 2001 data on the number of registered voters (582,388). This results in an increase in the Valley vehicle license fee boost to \$16 million.
4. **Gas Tax:** The gas tax is special fund revenue allocated similarly to the vehicle license fee. The Executive Officer's estimates reflect the updated population share and most recent count of registered voters in the proposed territory.
5. **Reserve Transfers:** The draws off the reserve fund were allocated in accordance with the recommended term and condition transferring 30.57 percent of the City of Los Angeles general fund reserves to the San Fernando Valley. The City's 2000-01 budget envisioned depleting the City's reserve fund balance by \$37 million, but due to revenue windfalls not anticipated in the

budget, the City ended up adding \$144 million to its reserves that year. The CFA used the adopted 2000-01 budget figures as its numeric basis. Consistent with its assumption that fund balances would not transfer, the CFA did not allocate the City's draw from its reserve fund to the proposed Valley city revenues. The City's reserve-depleting budget approach in the base year is clearly not a policy that could be sustained over the long-term. Elsewhere, this report recommends that the fiscal mitigation payment be made over a twenty-year period. It would be unreasonable to assume that the parties could continue depleting reserves each and every year. For the sake of consistency with the numerical basis, the Executive Officer has provisionally adjusted the project Valley revenues by allocating draws from the reserve fund that are explicitly listed in the City's budget. The Executive Officer is contemplating revision of these numbers once the City of Los Angeles Proposed Mayor's budget is released along with the actual revenues drawn from the reserve fund in the special reorganization base year.

6. **Special Fund Balances:** The terms and conditions recommended by the Subcommittee and Executive Officer allocate a pro-rata share of special fund balances to the San Fernando Valley. In the City's adopted FY 2000-01 budget, the City budgeted all available special fund balances as revenues and did not make explicit allocations for replenishing those fund balances. The actual revenues for past fiscal years has been presented in the City's budget to exclude the fund balances. For the sake of consistency with the numerical basis, the Executive Officer has provisionally adjusted the project Valley revenues by allocating draws from the reserve fund that are explicitly listed in the City's budget. Elsewhere, this Report recommends that the fiscal mitigation payment be made over a twenty-year period. It would be unreasonable to assume that the parties could continue depleting special fund balances each and every year. The Executive Officer is contemplating revision of these numbers once the City of Los Angeles Proposed Mayor's budget is released along with the actual revenues drawn from the special fund balances in the special reorganization base year.

Expenditures

In general, the Executive Officer's expenditure estimates took the Comprehensive Fiscal Analysis (Jan. 2002) and the supplemental fiscal analysis (February 2002) as a starting point. The Executive Officer adjusted the Feb. 2002 expenditure estimates by a factor of 99.943 percent to account for the addition of the Western Cahuenga pass Neighborhood. This factor represents the percent increase in the population of the Valley from adding the Western Cahuenga area back into the territory.

1. **Transition Costs:** The Executive Officer followed the numeric recommendations of the State Controller in allocating transition costs and contract administration costs to the proposed new city for purposes of the fiscal viability calculations.
2. **Valley City Personnel and Non-Departmental Costs:** The Executive Officer used the CFA estimates of Valley city personnel and non-departmental costs for purposes of the fiscal viability calculations.
3. **Fiscal Agent:** The Executive Officer estimates that the fiscal agent responsibilities would occupy at least one full-time experienced accountant, with related costs estimated at \$250,000 annually for purposes of the fiscal viability calculations.
4. **Debt Allocations:** The Executive Officer's debt allocations are based on the recommended terms and conditions.

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
GOVERNANCE OF NEW CITIES		
Elected Leaders		Pursuant to Government Code section 56852.7, the legislative body of the Valley City shall consist of fourteen council members elected by districts, as defined in Government Code section 34781, and a mayor who shall be a voting member of the council, elected at large. The initial boundaries, as established by the Commission consistent with the provisions of Government Code section 56852.7, are as set forth hereto in Attachment A [not yet provided]. As provided in Government Code section 34880, the City Council members shall hold office until the next general election. At that election, the Council members elected by or from even-numbered districts shall hold office for four years and the members elected by or from the odd-number districts shall hold office for two years. Thereafter, the terms of office shall be four years for all members. The mayor shall hold office for four years. (3/7/02)
Effective Date	The transition period shall commence with the effective date of incorporation (July 1, 2003).	The effective date of the special reorganization shall be January 1, 2003. [Applicants hereby reserve the right to present the following alternative term and condition to the Commission : "The effective date of the special reorganization is December 30, 2002."] (3/7/02)
Appropriations Limit		Pursuant to Government Code section 56842.6, the provisional appropriations limit submitted for voter approval shall be \$1,201,000,000. (3/7/02)
Sphere of Influence		The Commission shall adopt a sphere of influence for the City within one year of the date of Reorganization, as specified in Government Code section 56426.5. (3/7/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Name of City		Pursuant to Government Code section 57101(d), the preference of the new city's voters between names for the new city (hereinafter referred to as the "Valley City") shall be included on the ballot and the name shall be chosen from among the following five (5) choices: [Camelot], [Mission Valley], [Rancho San Fernando], [San Fernando Valley], [Valley City]. (3/7/02)
Appointive Positions		The City shall have a City Manager who shall be the City's chief executive. The City Council shall appoint the City Manager and also appoint the positions of city clerk, city treasurer, police chief, fire chief, city attorney, public works director, and planning director. (3/7/02)
Ordinances		The City Council shall, immediately following its organization and prior to performing any other official act, adopt an ordinance providing that all ordinances of the City of Los Angeles theretofore applicable shall remain in full force and effect as City ordinances for a period of one-hundred twenty (120) days thereafter or until the City Council has enacted ordinances superseding them, whichever shall occur first; provided however, any ordinances that conflict with general law shall not be effective. Enforcement of continuing ordinances of the City of Los Angeles shall be with the City, except insofar as enforcement services are furnished by the City of Los Angeles as Transition Municipal Services. (3/7/02)
TRANSITION PERIOD SERVICE		

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Transition Period Service		A Transition Period shall follow the Effective Date during which the City of Los Angeles will continue to provide the full range of existing municipal services to the Valley City that it currently provides within the Valley City's boundaries immediately prior to the effective date of the incorporation. During the Transition Period the Valley City shall take necessary initial legislative actions, assume required police powers, establish its executive leadership, and take such actions as may be necessary to assure a continuity of municipal services. The Valley City shall be responsible for providing other services currently provided by the City of Los Angeles, as set forth in Attachment C, by employing Valley City staff and facilities. (3/7/02)
Transition Period Length	The transition period shall commence with the effective date of incorporation (July 1, 2003) and terminate at the conclusion of the fiscal year in which the incorporation becomes effective (June 30, 2004).	The Transition Period shall extend from the Effective Date and conclude on June 30, 2004, except that the Transition Period for a particular service shall terminate on the effective date of a service contract between the parties for the provision of that service. [Applicants hereby reserve the right to present the following alternative term and condition to the Commission : "The Transition Period shall extend from the Effective Date through the end of the second full Fiscal Year ending June 30, 2005."] This Transition Period will allow time for Municipal Service Contract preparation, revenue transfer, asset transfer, and other transition tasks required to establish services in the Valley City. (3/7/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Payment Calculation	The new city shall compensate the City for all costs of continued service ("service costs"), including, without limitation, direct costs (e.g., labor costs), overhead, capital costs, related liability claims, administration costs, and costs not fully reimbursed through fees and charges.	Initially the Costs of Providing Transition Municipal Services shall be based on the CFA as specified in Attachment D [not yet provided; previous version included all current costs except Mayor, CAO, Neighborhood Empowerment and Treasurer]. These costs may be modified by agreement of the [Valley] City and the City of Los Angeles. As the parties execute individual Municipal Service Contracts during the Transition Period the Fiscal Agent shall recalculate the Municipal Revenue Percentage by deducting an amount equal to the cost of providing the associated Transition Municipal Service from the total Cost of Providing Transition Municipal Services City (see Attachment D) [not yet provided], and dividing the result by the total Selected Municipal Revenues (see Attachment E) [not yet provided] thus decreasing the Municipal Revenue Percentage. (3/14/02)
Payment Scope	During that time and except as provided herein, the City shall continue to render all services to the incorporated territory. Due to the considerable expenditures involved in the continuation of services and the significant financial injury that would be incurred by the City if it were required to make significant expenditures without timely reimbursement, under former California Government Code §§ 57302 the Commission specifically finds and determines that the service continuation requirement of former California Government Code §§ 57384(a) and the cost reimbursement provision of former California Government Code §§ 57384(b) for such service continuation are to be modified to conform to the terms and conditions set forth in this resolution.	To the extent that the Payment for Transition Services falls below the cost of providing the Transition Municipal Services, the shortfall amount shall be accrued and repaid from future accrued Selected Municipal Revenues multiplied by the Municipal Revenue Percentage that exceed the current Payment for Transition Services. Any balance due to the City of Los Angeles that remains owing at the end of the Transition Period shall be amortized and repaid over the subsequent five-year period with interest at accrued at the same rate as earned on the funds in the City of Los Angeles Investment Pool. (3/14/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Payment for Transition Services		The [Valley] City, through the services of a Transition Period Fiscal Agent, shall compensate the City of Los Angeles for Transition Municipal Services on a monthly basis beginning from the Effective Date ("Payment for Transition Services"). Payment for Transition Services shall be based upon a fixed percentage of selected municipal revenues plus additional dedicated revenues. Payment shall be calculated by applying a Municipal Revenue Percentage to [property tax, sales tax, utility users tax, business tax, motor vehicle license fees, and transient occupancy tax, together the "Selected Municipal Revenues"] actual monthly accruals as set forth in Attachment F. The initial Municipal Revenue Percentage shall be [95] percent. Payment for Transition Services will also include all special purpose revenues that currently accrue expressly for those services (e.g. motor fuel taxes for road maintenance) and all program revenue (revenue generated in association with the service rendered, e.g., building permit fees and related service charges). (3/7/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Reimbursement Schedule	The new city shall pay for these service costs on a monthly basis. The City shall present an invoice to the new city at the beginning of the month for which services are to be rendered setting forth an estimate of the costs anticipated for the month. That invoice is to be paid by the new city such that the funds will be received by the City by the tenth of the month. The City shall reconcile the estimate with actual costs, with payment for any difference being paid by the City to the new city or by the new city to the City such that any funds to be transferred will have been received within 30 days of the presentation of the reconciliation to the new city. If the new city does not make this payment, the County Auditor-Controller shall pay the City the sums due for this payment using the property tax, business tax, and utility users tax otherwise payable to the new city. This payment to the City from either the new city or the Auditor-Controller shall occur monthly.	The Total Payment for Transition Municipal Services shall not exceed the total cost of providing the Transition Municipal Services as specified in Attachment D unless the payment includes re-payment of any accrued cash flow shortfalls as described in Section 4.3, and/or reimbursement for a Startup Advance as described in Section 6.1. To the extent that the Payment for Transition Services falls below the cost of providing the Transition Municipal Services, the shortfall amount shall be accrued and repaid from future accrued Selected Municipal Revenues multiplied by the Municipal Revenue Percentage that exceed the current Payment for Transition Services. Any balance due to the City of Los Angeles that remains owing at the end of the Transition Period shall be amortized and repaid over the subsequent five-year period with interest at accrued at the same rate as earned on the funds in the City of Los Angeles Investment Pool. (3/7/02)
Interim Service Agreements		Immediately upon incorporation, the [Valley] City shall adopt Interim Service Agreements for all Transition municipal services provided by the City of Los Angeles. The City and the City of Los Angeles shall make good faith efforts to expeditiously enter into Interim Municipal Service Agreements. The interim Municipal Service Agreements shall include the terms and conditions contained herein for each applicable transition municipal service. Individual Interim Municiple Service Agreements shall continue until replace by Municipal Service Contracts (as they are developed) or until such time as the City accepts responsibility for providing services using City staff and facilities. (3/7/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Contractual Coverage	By contract, the City and the new city may agree to different services.	During the Transition Period the [Valley] City shall take necessary initial legislative actions, assume required police powers, establish its executive leadership, and take such actions as may be necessary to assure a continuity of municipal services. The [Valley] city shall be responsible for providing other services currently provided by the City of Los Angeles, as set forth in Attachment C by employing City staff and facilities. The [Valley] city may also contract with other entities for such services. (3/7/02)
Escape Clause		The [Valley] City may terminate Transition Municipal Services with adequate notice as set forth in Section 3.6 below, or the parties may alter such services by mutual agreement during the Transition Period, with a corresponding modification to the Payment for Transition Services. (3/7/02)
Escape clause II		<u>Notification of Termination</u> The Valley City may terminate Transition Municipal Services upon six month's notice. The Valley City shall continue to pay for Transition Municipal Services after notification of termination until the termination date. If the Valley City cancels a Transition Period service with less than six months notice, the Valley City shall continue to be obligated to pay for that service throughout the six month period. [Applicants hereby reserve the right to present the following alternative term and condition to the Commission : "Except for police, fire and public works, the Valley City may terminate Transition Municipal Services unilaterally by providing advance notification as follows: (a) Police, fire and public works, a minimum of six months notice shall be provided by the Valley City. (b) All other services shall require a minimum of three months notice."] (3/7/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Service Control	The City will retain complete control over the allocation of resources and the management of services. The new city may not give direction to City officers, City employees, or City contractors providing services to the incorporated area or make management decisions in regard to the rendering of those services.	
Service Level	The City shall retain the right to adjust or modify service in response to changes in the need for governmental services or circumstances beyond the City's control (e.g., emergencies, changed economic conditions, Acts of God). The City will notify the new city prior to making any significant changes in service, except in emergencies, in which case the City will give notice as soon as reasonably practicable. The City may also reduce or terminate services, in its discretion, if the new city does not timely reimburse the City for those services as provided in this section.	The City of Los Angeles shall continue to provide the full range of existing municipal services (Transition Municipal Services) during the Transition Period at Existing Service Levels in a manner identical to those services provided during the fiscal year prior to the Effective Date. Such services shall be purchased ("Purchased Municipal Services") by the Valley City pursuant to Interim Municipal Service Agreements. The City of Los Angeles shall be allowed to reduce service levels in the Valley City during the transition period only as may be required for management of City of Los Angeles emergencies or revenue shortfalls in the Valley City. (3/7/02)
Service Alternatives	If the City cannot or does not provide services to the territory of the incorporated area, the services will be provided by the County.	If the City of Los Angeles fails to maintain Municipal Service Levels during the Transition Period, the Valley City shall be entitled to a proportional adjustment of the Transition Revenue Share. (3/7/02)
MITIGATION PAYMENTS TO CITY OF LA		
Term	25 years	A total of twenty annual payments shall be due, including the first partial payment. (3/14/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Linkage to Revenues	If the new city does not make this payment, the County Auditor-Controller shall pay the City the sums due for this payment using the property tax, business tax and utility users tax otherwise payable to the new city. This payment to the City from either the new city or the Auditor-Controller shall occur monthly.	<u>Revenue Neutrality Payment Mechanism.</u> The payment annual payment amount shall not exceed 80.5 percent of the electric utility users tax collected by the New Valley City. To the extent that the annual payment amount calculated pursuant to this section is less than the payment calculated pursuant to section 7.1, the shortfall shall be accrued and repaid in subsequent years pursuant to section 7.4. <u>Revenue Neutrality Re-Payment for Revenue Shortfalls.</u> Any payment shortfalls that occur as described in section 7.3 shall accrue interest at the rate of [] and shall be repaid in the next period for which 80.5 percent of the electric utility users tax collected by the New Valley City exceed the payment required by section 7.1. (3/14/02)
Payment Amount	The mitigation payment shall be a monthly payment consisting of one-twelfth of the annual mitigation obligation. The base annual obligation of the Valley city has been calculated to be \$306 million [25,500,000.00 monthly], consisting of two components: stranded centralized costs (\$286 million) (93.5%) and other revenue foregone (\$20 million) (6.5%).	The annual payment amount shall be based on the CFA finding of a negative fiscal effect of \$65.8 million annually upon the City of Los Angeles. The payment in the first partial fiscal year will be prorated proportionately. Beginning in the first full fiscal year and continuing through the payment term, the annual payment shall be equal to the prior year's full-year payment adjusted by [the lesser of 2.5 percent or actual inflation for the prior], then discounted by five percent. The payment shall be due by the last day of the fiscal year for which the payment is due.(3/14/02)
Payment Schedule	The first monthly payment shall be made on the first day of the month following the effective date of incorporation an shall be deemed payment for the partial month just concluded. Subsequent payments shall be made on the first of the following month.	

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Pre-Payment		The new Valley city may pre-pay in full the remaining revenue neutrality payment obligations. The amount of the pre-payment shall equal the present value of the remaining payments calculated according to section 7.1 with an assumed inflation rate of 2.5 percent, discounted at the [yield rate of ten-year Treasury securities of constant maturity, e.g. 5.05% on February 4, 2002]. (3/14/02)
Payment Offsets	During the transition period only, to the extent that the stranded centralized costs component is recovered by the City through payment for services, the mitigation payment shall not include them. Assuming such will be the case, the base monthly payment prior to adjustment for the months of July 2003 through June 2004 shall be \$1,666,666.67 (\$20 million x 1/12). For these months, the monthly payment shall be adjusted as of July 1, 2003 on the basis of the average (mean) monthly Consumer Price Index ("CPI") for all goods and services for the Los Angeles region...for the year ending the preceding April 30. Thereafter, for a period of twenty-four (24) additional years the base annual obligations set forth above (\$306 million annually) shall be adjusted annually (as of July 1, with the first adjustment being for the year beginning July 1, 2004) on the basis of the average (mean) monthly CPI for the Los Angeles region for the year ending the preceding April 30.	The revenue neutrality amount shall be adjusted based on the following factors, and/or other factors as mutually agreed to by the parties: (a) Transfer of a pension fund liability from the City of Los Angeles to the new Valley city associated with a transferred employee shall be a credit against the revenue neutrality payment amount; (b) Transfers of other expenditures or liabilities not included in the CFA's calculation of the revenue neutrality amount, e.g. the transfer of the Van Nuys Airport to the new Valley city shall correspondingly reduce the annual revenue neutrality amount by the estimated annual subsidy to the Airport, currently estimated to be \$4 million. (3/14/02)
FISCAL AGENT		

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Revenue Collection	All property taxes and all assessments and fees collected through the property tax bills to which the new city would otherwise be entitled, business taxes of the new city, and utility users taxes of the new city shall be remitted to an retained by the County Auditor-Controller as a third-party fiscal agent.	All Municipal Revenues generated within the [Valley] City and the authority to receive these revenues, whether they are collected by the State, County, or City of Los Angeles, shall be transferred to the [Valley] City. The City of Los Angeles shall retain property tax received following the Effective Date until the start of the next full fiscal year (July 1, 2003) and credit the amount towards the Payment for Transition Services. Any other Municipal Revenues retained by the City of Los Angeles due to unavoidable circumstances that arise during the Transition Period (e.g., required filings, accounting procedures, etc.), that would otherwise be due the [Valley] City shall similarly be credited towards the [Valley] City's obligation for Payment for Transition Municipal Services. (3/14/02)
Fiscal Agent		<u>Transition Period Fiscal Agent.</u> The County of Los Angeles Auditor-Controller shall be the Fiscal Agent during the Transition Period. All Selected Municipal Revenues accruing to the City shall be deposited with the Auditor Controller and held in a Transition Trust Account in the interest of the City and the City of Los Angeles. Each month, the Auditor Controller shall distribute funds from the Transition Trust Account to the City and the City of Los Angeles. The City of Los Angeles Share shall be equal to the current Municipal Revenue Percentage as determined in Section 4.1 multiplied by the current month's Selected Municipal Revenues. (3/14/02)
Fiscal Agent Payment Priorities	The Auditor-Controller shall disburse those sums to the City and, if applicable, to the new city in accordance with this term and condition. Before making any disbursement to the new city or any other entity making claim to those sums, the County Auditor-Controller shall disburse to the City those sums as described in this term and condition. The claim of the City to those moneys shall take precedence over any other claimants to the money, including those of the new city, its creditors, or its financiers.	

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Late Payments	For any late payment, the Auditor-Controller shall add interest at a rate equal to the City's general pool investment yield to the disbursement made to the City.	
Fiscal Agent Costs	The new city shall pay for the cost of using the Auditor-Controller as a third party fiscal agent.	
REVENUES		
Start-Up Advance		<u>Startup Advance.</u> The City of Los Angeles will advance up to \$[1,000,000] immediately following the Effective Date to be drawn upon by the City during the period between the Effective Date and the end of the second full quarter following the Effective Date. This Startup Advance will fund professional and administrative services necessary to initiate City governance, management, and administration. Reimbursement of the Start-up Loan, along with interest accrued at the same rate as earned on the funds in the City of Los Angeles Investment Pool (or other similar fund or pool), will occur with the Payment for Purchased Services to the City of Los Angeles at the end of the first quarter of the first full fiscal year. (3/14/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Grants	If the City has been awarded state, county or federal grant funds prior to the effective date of incorporation that must be used in the detached territory, the City will facilitate an amendment to its grant agreement with the granting agency, so that the moneys can be deleted from the City's grant agreement and the new city may enter into a direct grant agreement with the granting agency for use of those funds. The new city shall not be entitled to any other division or allocation of grant funds, and shall not be included within future City applications for, or allocation of, grant funds. Notwithstanding the above, any grant funds that may legally be expended within the boundaries of the City not including the territory encompassed in the new city, may, at the option of the City be used by the City within its boundaries, or the City may seek to amend its grant agreement to delete those funds as described earlier in this paragraph.	<u>Grant Funding.</u> Grant Funding previously appropriated for projects in the territory of the City shall be transferred. The City of Los Angeles shall facilitate an amendment to its grant agreements with granting agencies so that grant funding can be deleted from the City's grant agreements and granting agencies may enter into direct grant agreements with the City for use of those grant funds. <u>Home, McKinney and Community Development Block Grant (CDBG).</u> During the Transition Period, the City will continue to participate in all such programs, unless alternative arrangements are determined by mutual consent. (3/14/02)
Tax Authorization		All previously authorized and collected charges, fees, assessments and general or special taxes previously collected by the City of Los Angeles shall be collected in the [Valley] City. (3/14/02)
Tobacco Settlement	[No terms proposed]	[Position: Proposes proportional share of tobacco settlement funds directly or as deduction from revenue neutrality payment] (3/14/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Special Assessment Districts	The administration of any assessment districts located entirely within the detached territory shall be transferred to the new city's legislative body after the effective date of incorporation. To the extent that any assessment district is located partially within the new city and partially within the remaining city, that portion located within the new city shall be detached and become the responsibility of the new city.	All assessment districts wholly within the [Valley] City shall become the responsibility of the [Valley] City. Assessment districts that are partially within the City shall be detached and the portion within the City shall become the responsibility of the City; provided however that any territory of the city located within the boundaries of Landscaping and Lighting District No. 96-1 Proposition K shall continue to be liable for assessment and payment of its pro rate share of any bonds issued prior to incorporation that are secured by Proposition K funds, based upon the benefit points methodology currently used for such assessment district, including related bond trustee costs and costs charged by the County of Los Angeles for collection services. (3/14/02)
	That portion of Landscaping and Lighting District No. 96-1 (Proposition K) located within the new city shall be detached from the District and formed into a new District. The assessment that will be authorized to be collected by the respective Districts annually for the remainder of the assessment (2021) shall be as follows: District located within remaining City of Los Angeles: \$_____ per year District located within Valley Special Reorganization Area: \$_____ per year The new city shall be obligated to carry out those specified projects located within its territory and otherwise administer the District in compliance with all responsibilities, powers and limitations of District 96-1. In addition to the specified projects, the District shall be authorized to allocate funds for competitive projects in accordance with Section 6 of Proposition K in the following amount and for the following categories of projects. [categories with annual amounts not provided]	Assessment districts that are partially within the [Valley] City shall be detached and the portion within the [Valley] City shall become the responsibility of the [Valley] City; provided however that any territory of the city located within the boundaries of Landscaping and Lighting District No. 96-1 (Proposition K) shall continue to be liable for assessment and payment of its pro rata share of any bonds issued prior to incorporation that are secured by Proposition K funds, based upon the benefit points methodology currently used for such assessment district, including related bond trustee costs and costs charged by the County for collection services. (3/14/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Prop K Assessment District	Should division of the District into separate Districts be found unlawful, the territory in any new city shall be detached from the District and the amount of the assessment levied within the City shall be adjusted in accordance with this term and condition. Notwithstanding the above, property in any new city shall continue to be liable for assessment and payment of its pro rata share of any bonds issued prior to incorporation that are secured by Proposition K funds, including related bond trustee costs and costs charged by the County for collection services. The amount that the properties in the new city shall be assessed shall be determined by the City and levied by the new city based upon the benefit points methodology currently used. The new city shall cooperate in providing to the City any information needed to determine the appropriate assessment amount. The County shall rely on the assessment figure determined by the City, shall continue to collect these fees as part of the property tax bill, and shall remit the fees directly to the City.	
PUBLIC EMPLOYEES		
General	<u>Employment.</u> As a governmental employer, the new city will be free to appoint persons to employment positions that it establishes and chooses to fill. Some such persons may be former employees of the City, who will have voluntarily resigned from their employment with the City to accept employment in the new city ("migrated employees").	The transfer of Employees shall be on a voluntary basis. At such time as Transition Municipal Services are terminated, and assuming that the [Valley] City has not entered into a related Municipal Service Contract with the City of Los Angeles, the employees who deliver those services will be offered jobs as [Valley] City employees. Those employees who elect to take employment with the [Valley] City shall receive the same level of compensation and all benefits per their existing labor agreements, their seniority, bumping rights and placement on certification lists, and retirement benefits in accordance with the provisions of Government Code section 56844.2. (3/7/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Bargaining Unit & Contract	If the migrated employee was a represented employee at the time of resignation from City employment, the new city shall recognize a bargaining unit for such employee that is described similarly to that to which the migrated employee had belonged while employed by the City. The certified bargaining representative for such unit shall become the certified bargaining representative for the new city's bargaining unit. Any memorandum of understanding (labor contract), whether or not so named, for the migrated employee's City bargaining unit shall be binding on the new city for the balance of the term of the memorandum.	Upon any transfer of employees to the new Valley city, collective bargaining agreements and memorandums of understanding will continue to apply to employees working in the new Valley city. (2/25/02)
Civil Service	A civil service system shall be established that conforms to that reflected in the City's charter, civil service rules and policies, and other laws in existence on the date of incorporation. The new city shall recognize and observe the civil service rights of migrated employees, including seniority.	The civil service provisions of the City of Los Angeles Charter (Section 1000, et. seq.) shall apply to Transferred Employees. The City Council of the Valley City shall, immediately following its organization, adopt an ordinance providing that the civil service provisions of the City of Los Angeles Charter (Section 1000, et. seq.) apply to Transferred Employees. (3/7/02)
Retirement Benefits	The new city shall accord the migrated employee retirement benefits, including but not limited to, health, dental, and vision care benefits, at a level at least equal to that to which the migrated employee was entitled on the date of incorporation.	<u>Retirement Benefits</u> The Valley City shall become a member of the Public Employees' Retirement System (PERS). <u>Transfer of Retirement Benefits</u> The benefits of Transferred Employees who are participants in the Los Angeles City Employees' Retirement System shall transfer with the Transferred Employees pursuant to the provisions of the reciprocity agreement between the City of Los Angeles and PERS, and the Revenue Neutrality Agreement set forth in 7.1 below. In the absence of a Revenue Neutrality Agreement, the actuarial equivalent value of the accrued benefit earned to the date of transfer on the assumption that retirement will occur at the maximum level for each Transferred Employee shall be transferred to the Valley City. (3/7/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
	To the extent that the City is left with a workforce that exceeds the funds available, work to be performed, or positions to be filled: (i). The new city shall pay the City for the full cost of compensation of each such employee (including, without limitation, salary, pension, and benefits). Those payments will be considered transition costs for purposes of this resolution. (ii). To the extent that the new city refuses or fails to pay the employee compensation as provided above, the Commission recognizes that the City's manner of reducing its workforce to accommodate these constraints is by layoff in the manner prescribed by Charter, civil service rule, and the City's employment practices.	<u>Non-Transferring Employees.</u> Attachment E lists the total number of budgeted employees in each department of the City of Los Angeles, the number of those employees who deliver services within the boundaries of the Valley City and the number of those employees who deliver services in the areas of the City of Los Angeles outside of the boundaries of the Valley City (Los Angeles Allocated Employees). At such time as Transition Municipal Services are terminated, and if the Valley City has not entered into a related Municipal Service Contract with the City of Los Angeles for the services provided by one or more department(s), Employees will be transferred in the following manner: a) First employees in those positions designated by Attachment E as providing service to the Valley shall be sent an invitation to become employed by the Valley City, b) In the event, all the positions are not filled after step a above, invitations shall be sent to employees in the remainder of the department. c) In the event, all the position are not filled after step a and b above, the City of Los Angeles shall apply the employees who choose not to transfer to the Valley City to fill vacancies where possible, including to reasonably similar positions in different departments where reasonably possible. (3/7/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Surplus Employee Mitigation		d) After steps a, b and c, there may be an insufficient number of Transferred Employees from said department(s), resulting in the City of Los Angeles incurring expenses for employees greater than the number of Los Angeles Allocated Employees (Non-Transferring Employees) per Attachment E. In such event, the Valley City shall reimburse the City of Los Angeles for the expenses of the Non-Transferring Employees of said department(s). The amount, if any shall decrease by the actual attrition as it occurs. (3/7/02)
ASSETS		
Liquid Assets & Trust Accounts	The City shall transfer to the new city impact fees and other special fees collected prior to the incorporation that are obligated to be used solely in the territory of the new city for construction of specific facilities or improvements, or the delivery of specific services, not yet constructed or delivered. The new city shall be required to expend those moneys for the original purposes for which the fees were collected, and shall be bound by all legal obligations with respect to use of the money that would otherwise bind the City, including but not limited to, time limits, if any, in which to expend the money, or obligations to refund unexpended fees. The transfer of fees shall not toll any time limits in which to expend the moneys. The new city shall indemnify and hold harmless the City from any actions alleging improper use of these moneys. The fees covered by this paragraph include, but are not limited to, the following: [list to be supplied]	<u>Cash and Other Liquid Assets.</u> All such assets currently identified, or identified during the Transition Period, shall be transferred including (but not limited to): (a) Trust Account Funds - The City of Los Angeles will provide accounting for the purposes of distributing funds set aside for use in the territory included in the City, including but not limited to development impact fees (as set forth in paragraph (1) below), development agreement funds, project-appropriated CIP funding, Quimby fees (parkland dedication in lieu fees), and all other trust funds collected in the territory included in the City expressly for projects or improvements therein. (b) Other Liquid Assets - All other liquid assets shall be divided and transferred proportionate to population. (3/14/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Development Impact Fees		<u>Development Impact Fees.</u> The City of Los Angeles shall transfer to the City impact fees and other special fees collected prior to the effective date of the incorporation that are obligated to be used solely in the territory of the City for the construction of specific facilities or improvements, or the delivery of specific services, not yet constructed or delivered. The City shall be required to spend such impact fees or other special fees for the original purposes for which such fees were collected and shall be bound by all legal obligations with respect to the use of such fees. (3/14/02)
Local Service-Related Assets	Those local assets (e.g., parks, libraries) owned by the City located in the new city and as listed in appendix B shall be transferred to the new city without compensation when all of the following have occurred: (a) the transition period has ended, (b) the new city is not in default on any of its obligations under this resolution, and (c) the City and the new city have entered into an agreement which satisfies the City that mechanisms are in place to guaranty [sic] that the new city will be able to meet all of its obligations to the City, including but not limited to, the mitigation payment, debt service and liability payments, service costs, and transition costs. No assets, property, rights of way, easements or other property interests related to operation of the water system, power system, wastewater system, and communications or other centralized systems will be transferred.	All right, title, interest and responsibility of the City of Los Angeles, including the underlying fee title were owned by the City of Los Angeles or owned by City of Los Angeles-governed districts of all Police, Fire, Animal Services, Park, and Library buildings and facilities, including all furnishings, fixtures, rolling stock and other equipment contained therein or otherwise associated with the services provided by that facility located within the [Valley] City boundaries shall vest in the [Valley] City (see Attachment D). (3/14/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Transfer of real property		<u>Transfer of Real Property.</u> Upon the effective date all right, title, interest, and responsibility of the City of Los Angeles, including the underlying fee title where owned by the City of Los Angeles or owned by City of Los Angeles-governed districts located within the City boundaries shall vest in the City as set forth below. The City and the City of Los Angeles, on behalf of itself and City of Los Angeles governed districts, shall expeditiously prepare and record appropriate documents following incorporation to evidence such transfer of real property interests. (3/14/02)
Public Safety property: Police		Police - All right, title, interest and responsibility of the City of Los Angeles, including the underlying fee title were owned by the City of Los Angeles or owned by City of Los Angeles-governed districts of all Police buildings and facilities, including all furnishings, fixtures, rolling stock and other equipment contained therein or otherwise associated with the services provided by that facility located within the City boundaries shall vest in the City. (see Attachment G). (3/14/02)
Public Safety property: Fire		Fire - All right, title, interest and responsibility of the City of Los Angeles, including the underlying fee title were owned by the City of Los Angeles or owned by City of Los Angeles-governed districts of all Fire buildings and facilities, including all furnishings, fixtures, rolling stock and other equipment contained therein or otherwise associated with the services provided by that facility located within the City boundaries shall vest in the City. (see Attachment G). (3/14/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Public Safety property: Animal services		Animal Services - All right, title, interest and responsibility of the City of Los Angeles, including the underlying fee title were owned by the City of Los Angeles or owned by City of Los Angeles-governed districts of all Animal Services buildings and facilities, including all furnishings, fixtures, rolling stock and other equipment contained therein or otherwise associated with the services provided by that facility located within the City boundaries shall vest in the City (see Attachment G). (3/14/02)
Municipal Buildings & Facilities		Other municipal buildings, including all furnishings, fixtures, rolling stock and other equipment contained therein or otherwise associated with the services provided by that facility located within the City boundaries shall vest in the City (see Attachment G). (3/14/02)
Other Municipal Facilities		Other Municipal Facilities - Other municipal facilities that are presently identified (see Attachment G) or which are identified during the Transition Period, including all furnishings, fixtures, rolling stock and other equipment contained therein or otherwise associated with the services provided by that facility located within the City boundaries shall vest in the City. (3/14/02)
Streets	Upon incorporation the new city shall receive real property interests in roads and highways owned by the City within the incorporated area, except the City shall retain title to all assets, property, rights of way, easements, and other property interests (including, but not limited to, those that may be on, under, or adjacent to those roads and highways) related to operation of the water system, power system, wastewater system, and communications or other centralized systems.	All right, title, interest and responsibility of the City of Los Angeles, including the underlying fee title were owned by the City of Los Angeles or owned by City of Los Angeles-governed districts of any and all public roads, adjacent slopes, medians, sidewalks, trails, bikeways, landscaped areas, open space, street lights, signals, and bridges located within the City boundaries shall vest in the [Valley] City. (3/14/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Parks		Parks - All right, title, interest and responsibility of the City of Los Angeles, including the underlying fee title were owned by the City of Los Angeles or owned by City of Los Angeles-governed districts of all park real property, including all fixtures, equipment, rolling stock and personal property located on the park real property located within the City boundaries or otherwise associated with the services provided at such locations shall vest in the City (see Attachment G). The City of Los Angeles shall provide the City legal descriptions of these parks as a component of the master quitclaim deed prepared by the City of Los Angeles in connection with the conveyance. (3/14/02)
Library		Library - All right, title, interest and responsibility of the City of Los Angeles, including the underlying fee title were owned by the City of Los Angeles or owned by City of Los Angeles-governed districts of all Library buildings and facilities, including all furnishings, fixtures, rolling stock and other equipment contained therein or otherwise associated with the services provided by that facility located within the City boundaries shall vest in the City (see Attachment G). (3/14/02)
Easements	[Position: Easements transfer in a manner that follows that asset to which it is related.]	All easements associated with any and all transferred property and facilities shall be transferred from the City of Los Angeles to the [Valley] City. (3/14/02)
Financial Records & Data	[Position: On-site access upon effective date, with new city reimbursing the City's costs of constructing separate financial records.]	Other assets related to all facilities and services transferred, including assets held by the City such as furnishings, fixtures, equipment, data bases, software, records of various types which will be necessary for the continued provision of service located within the City boundaries shall vest in the City, subject to existing license and other contractual limitations. (3/14/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Stormwater	Storm drains owned in fee by the City and storm drain easements owned by the City that are located in the incorporated area shall be transferred to the new city. The new city shall obtain its own MS4 permit or other necessary permit from the California Regional Water Quality Control Board in order to discharge into the waters of the United States.	Upon the effective date of incorporation, the [Valley] city shall assume ownership and maintenance responsibilities for all City of Los Angeles drainage devices, storm drain channels and appurtenant facilities, site drainage and all master plan storm drain facilities, located within the City's boundaries. The City shall be responsible for obtaining its own MS4 permit or other necessary permit from the California Regional Water Quality Control Board or other governmental agency related to the discharge of waters. The [Valley] city shall be responsible for the administration of floodplain zoning and Federal Emergency Management Agency's ("FEMA") floodplain regulations. (3/14/02)
Sanitation	[included with local service-related assets]	Sewage Treatment and Disposal - Each resulting City shall have a proportional undivided interest in the regional sewer system. Subject to the approval of the both the City and the resulting City of Los Angeles a Joint Powers Authority that incorporates equal protection provisions for both cities shall be established to govern and oversee the operation of the Sewer System within the three year transition period. If at the end of the transition period a JPA is not established then the operations and assets of sewer system shall be divided and allocated between the City and the City of Los Angeles based on the percentage each area represents of the total rate payers (per section 56844 (h), (j) & (k)), unless some other mutually agreeable arrangement is reached that provides that the City's residents will receive sewer services at the same rates and quality of services as that received by residents of the City Los Angeles for like services, should the City allow the City of Los Angeles to retain the Sewer System assets. (3/14/02)
Airports	All assets and property under the control of the Departments of Airports, Harbor, and Water and Power shall remain with the City. Ownership and control of the City's airports, the Port of Los Angeles, and the water, power, and wastewater systems shall remain with the City.	Van Nuys Airport - Subject to the approval of the FAA Van Nuys Airport shall be transferred to the new Valley City. (3/14/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Port of LA	All assets and property under the control of the Departments of Airports, Harbor, and Water and Power shall remain with the City. Ownership and control of the City's airports, the Port of Los Angeles, and the water, power, and wastewater systems shall remain with the City.	[Position: Retained by City of LA] (3/7/02)
Miscellaneous	No assets or property of the City located in the new city shall be transferred to the new city except as provided for in this resolution.	All other property owned by the City of Los Angeles, excluding assets specifically addressed elsewhere, located within the [Valley] City boundaries shall vest in the [Valley] City. (3/14/02)
UTILITIES		
Utility Rates	The City will not establish a differential between rates charged users in the City and those in the new city unless the differential is justified under the reasonableness standard established at common law, which allows for rates differentials only if they reflect rational distinctions drawn between in-City and out-of-City users of the system, such as, but not limited to, higher costs in providing service to out-of-City residents or different returns on investment predicated on differences in how in-City and out-of-City users finance the system. To the extent that there are risks or obligations borne or financial commitments undertaken by the City and its residents and not by out-of-City users, that distinction can be reflected in differential returns on investment and, as a result, in different rates for in-City versus out-of-City use.	The City of Los Angeles shall continue to provide utility services, including electricity, water, and sewage treatment services, to the residents and businesses of the [Valley] City at the rate structures identical to those applied throughout the City of Los Angeles for the same or similar uses so long as the City of Los Angeles is the provider of these services to the [Valley] City. (3/14/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Water and Power Assets	All assets and property under the control of the Departments of Airports, Harbor, and Water and Power shall remain with the City. Ownership and control of the City's airports, the Port of Los Angeles, and the water, power, and wastewater systems shall remain with the City. Users and customers in the detached territory shall remain users and customers of the City's water, power, and wastewater systems.	<u>Utility Assets.</u> Each resulting City shall have a proportional undivided interest in the assets of the Department of Water and Power. Subject to the approval of the both the City and the new City of Los Angeles a Joint Powers Authority that incorporates equal protection provisions for both cities shall be established to govern and oversee the operation of the Department of Water and Power within the three year transition period. If at the end of the transition period a JPA is not established than the operations and assets of sewer system shall be divided and allocated between the two cities based on the percentage each area represents of the total rate payers (per section 56844 (h), (j) & (k)), unless some other mutually agreeable arrangement is reached that provides that the Valley residents will receive water and power services at the same rates and quality of services as the rest of Los Angeles residents receive should the City allow the City of Los Angeles to retain full ownership of Department of Water and Power assets. (3/14/02)
Water Rights		<u>Water Rights.</u> The City shall receive a population-based pro rata share of water rights that are presently held by the City of Los Angeles. (3/14/02)
Utility Debt	Residents, businesses, and others in the territory of the new city shall remain users and customers of the water, power, and wastewater systems at least as long as required to satisfy contractual covenants established in connection with the issuance of bonded indebtedness.	Liabilities in this category are those related specifically to the assets including leases or liens, bonded debt, or other linked expenses such as insurance payments. These assets (and related liabilities) shall be transferred to a new Municipal Utility District or other regional entity (e.g. a JPA). In the event these assets are not transferred to an MUD or JPA, then the liabilities should follow the assets. (3/14/02)
Wastewater Assets	[same as Water and Power assets]	[same as Water and Power assets] (3/7/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Wastewater Fees & Regulation	The City may impose fees and charges related to operation of the wastewater system and regulate industrial dischargers to ensure compliance with the City's environmental discharge permits. The City may exercise its authority directly or by contracting with the new city.	
LIABILITIES		
General	The new city shall in good faith endeavor to defease (pay off) its portion of the City's debt within twelve months of the effective date of incorporation. (ii). Unless and until the new city defeases its portion of the City's debt, the new city shall assume the obligation for its portion of the City's debt and bear a corresponding share of the City's debt service obligation as follows:	
General Obligation & Special Tax Bonds	<u>General obligation bonds and special tax bonds.</u> The new city shall annually adopt an ordinance levying the property tax assessment sufficient to fund the new city's share of the debt service for general obligation bonds and special tax bonds. Upon receipt by the Auditor-Controller of those revenues, the Auditor-Controller shall remit those moneys to the City until the new city's proportion of the debt is extinguished. If the new city fails does not enact the annual ordinance and remit those revenues to the City, the County Auditor-Controller shall pay the City the sums due, using the property taxes otherwise payable to the new city.	<u>Liabilities related to Citywide-Serving Facilities.</u> The cost of existing liabilities of the City of Los Angeles (those existing as of June 30, 2000) associated with City-wide serving assets such as the Main Library have been included in the Municipal Service Cost Estimates included in the Comprehensive Fiscal Analysis. The City of Los Angeles may include these costs in Municipal Transition Service Costs and Interim Municipal Service Agreements. <u>Liabilities Related to Municipal Service-Supporting Assets.</u> Liabilities in this category are those related specifically to the assets including leases or liens, bonded debt, or other linked expenses such as insurance payments. These related liabilities shall be allocated to the City and shall be secured, in one manner or another, as a condition of asset transfer. (3/14/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Sanitation Equipment Charge Revenue Bonds	<u>Sanitation Equipment Charge revenue bonds.</u> The new city shall continue to levy the sanitation equipment charge and remit those sums monthly to the City until the new city's portion of the debt service on the Sanitation Equipment Charge revenue bonds is extinguished. If the new city does not levy the charge or remit the proceeds to the City, the County Auditor-Controller shall pay the City the sums due for the new city's share of debt service (41%) for the Sanitation Equipment Charge revenue bonds, using the property tax otherwise payable to the new city. This payment to the City from either the new city or the Auditor-Controller shall occur monthly.	[same as position on general obligation and special tax bonds] (3/14/02)
General Fund Lease Obligations, Certificates of Participation, and Judgment Obligation Bonds	<u>General fund lease obligations, certificates of participation and judgement obligation bonds.</u> For these forms of indebtedness, the new city shall pay its share of existing debt (30.46%) to the City on a monthly basis until the debt is extinguished. If the new city does not make this payment, the County Auditor-Controller shall pay the City the sums due for the new city's share of debt service using the property tax otherwise payable to the new city. This payment to the City from either the new city or the Auditor-Controller shall occur monthly.	[same as position on general obligation and special tax bonds] (3/14/02)
Parking Revenue Bond	For this form of indebtedness, the new city shall pay its share of existing debt (13%) to the City on a monthly basis until the debt is extinguished. If the new city does not make this payment, the County Auditor-Controller shall pay the City the sums due for the new city's share of debt service using the property tax otherwise payable to the new city. This payment to the City from either the new city or the Auditor-Controller shall occur monthly.	[same as position on general obligation and special tax bonds] (3/14/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Non-debt Liabilities	<u>Workers compensation/existing and contingent liabilities.</u> The new city shall pay a share of liability arising from claims and lawsuits concerning events or conducts occurring in whole or in part prior to the date of incorporation proportionate to the new city's contribution to the City's general fund during fiscal year 2000-01 (30.46%). Payments made by the City to terminated employees hired on by a new city or laid off as a result of the Special Reorganization for accrued benefits (e.g. vacation time) shall be treated as one form of existing or contingent liability. On a monthly basis, the City shall present an invoice to the new city for its share of judgments, settlements, and the costs of investigation and defense. If the new city does not make this payment, the County Auditor-Controller shall pay the City the sums due for the new city's share of debt using the property tax otherwise payable to the new city. This payment to the city from either the new city or the Auditor-Controller shall occur monthly.	<u>Liabilities Not Related to Assets.</u> The cost of existing liabilities not associated directly with municipal assets or incorporated into purchased services (e.g., tort liability, workman's compensation claims, etc.) shall be allocated to the City proportional to population. (3/14/02)
Tort Liability	<u>Consultation Regarding Payment of Non-Debt Liability.</u> The City shall report to the new city on a [not yet provided frequency] basis on the status and progress of those claims and lawsuits referred to in paragraph 4(e). The City shall consult the new city before agreeing to settlements involving the payment of \$_____ or more to any claimant or plaintiff or \$_____ or more for any one matter, and shall grant reasonable requests for consultation made by the new city regarding other claims or lawsuits. The new city shall cooperate with the City in the investigation and defense of these matters.	

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Leases	<u>Leases.</u> Subject to the consent of the lessor or terms of the lease, the City, at its option, may terminate any existing leases that the City no longer needs for the provision of services in the area detached from the City, or assign the lease to the new city, which shall accept the lease. Should the new city not accept the lease, any costs incurred by the City as a result thereof shall be treated as transition costs and reimbursed in accordance with paragraph 2.	
EXPENDITURES		
Redistricting Election	[Position: Election costs for redistricting the remaining City of Los Angeles should be borne by the Valley.]	The costs of election on the question of special reorganization shall be allocated pursuant to Government Code Section 57150(e). The cost of the redistricting the City of Los Angeles shall be paid by the Valley City and the City of Los Angeles proportionate to population. (3/7/02)
Transition Costs	<u>Transition Costs.</u> Costs incurred by the City on account of the special reorganization ("transition costs")--whether arising before, during, or after the transition period--are to be paid by the new city to the City and shall be a monthly obligation. The transition costs shall consist of those listed in appendix A [one-time costs of at least \$49 million] and other costs identified by the City. The City shall estimate, reconcile, and be paid for transition costs in the same manner as service costs.	
DEVELOPMENT & REDEVELOPMENT		

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Development Agreements	The new city shall succeed to the benefits and be bound by the obligations and duties of the City with respect to the Development Agreements listed below, and the City shall be relieved of any obligation under those Agreements. The new city shall indemnify and hold the City harmless from any claims or actions based on the new city's failure to fulfill or enforce any of the terms of the Development Agreement or conditions of its approval, including, without limitation, terms or conditions related to environmental mitigation. The Development Agreements are: [list of agreements to be supplied]	The Valley City shall succeed to the benefits and rights and be bound by the obligations and duties of the City of Los Angeles with respect to the Development Agreements listed in Attachment B hereto, and the City of Los Angeles shall be relieved of any obligation under those Agreements. (3/7/02)
Development Permits	Any conditions of approval (including, without limitation, mitigation measures adopted pursuant to the California Environmental Quality Act) imposed by the City on any discretionary project approved prior to the effective date of incorporation shall be valid and enforceable between the applicant and the new city in which the development is located. The new city shall indemnify and hold the City harmless from any claims or actions based on the new city's failure to fulfill or enforce any of the terms of the permit or conditions of its approval, including, without limitation, terms or conditions related to environmental mitigation.	Any conditions of approval (including, without limitation, mitigation measures adopted pursuant to the California Environmental Quality Act) imposed by the City on any discretionary projects approved prior to the effective date, located within the boundaries of the Valley city, shall be valid and enforceable between the project applicant and the Valley city. (3/7/02)
Redevelopment Projects	Any transfer of the administration of any redevelopment area located in the detached territory shall be in accordance with California Health and Safety Code §§ 33214-33217.	The [Valley] City will establish a Redevelopment Agency (RDA). All assets and liabilities of the City of Los Angeles' RDA project areas located within the [Valley] City boundaries will transfer from the City of Los Angeles RDA to the City RDA in accordance with the provisions of the Community Redevelopment Law (California Health and Safety Code section 33000 et seq. The City of Los Angeles shall not expand the boundaries of any RDA project area within the [Valley] City nor will it establish any new redevelopment project area during the Transition Period without official consent of the City Council of the [Valley] City. (3/14/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Business Improvement Districts	The administration of any Business Improvement District located entirely within the detached territory shall be transferred to the new city's legislative body after the effective date of incorporation. To the extent that any Business Improvement District is located partially within the new city and partially within the remaining City, that portion located within the new city shall be detached and become the responsibility of the new city.	
DEFAULTS AND REMEDIES		
Events of Default		<u>Events of Default.</u> A default under this Agreement shall be deemed to have occurred upon the happening of one or more of the following events or conditions: a) One party to this Agreement is proven to have knowingly made a material false representation to the other. b) The City of Los Angeles fails to provide the services provided for in Section 3.0 of this Agreement. c) The New Valley City or City of Los Angeles fails to make any payment due hereunder. d) Any other act or omission by New Valley City or City of Los Angeles which materially interferes with the terms of this Agreement (3/14/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
		Upon the occurrence of default by the other party, the New Valley City or City of Los Angeles shall provide the other party thirty (30) days written notice specifying the nature of the alleged default and, when appropriate, the manner in which said default may be satisfactorily cured. After proper notice to the other party of the occurrence of default by that party and the expiration of said thirty (30) day cure period without substantial cure, either party may terminate this Agreement. In the event that New Valley City's or City of Los Angeles's default is not subject to cure within the thirty (30) day cure period but is subject to cure within a longer period of time, New Valley City or City of Los Angeles shall be deemed not to remain in default in the event that New Valley City or City of Los Angeles commences to cure within such thirty (30) day cure period and diligently prosecutes such cure to completion. Failure to delay in giving notice of any default shall not constitute a waiver of any default, nor shall it change the time of default. (3/14/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Procedure on Default		Notwithstanding any other provision of this Agreement, the New Valley City and City of Los Angeles reserve the right to formulate and propose to the other party options for curing any defaults under this Agreement for which a cure is not specified in this Agreement. In the event of the New Valley City's uncured default of its obligations to make any payment due hereunder, the City of Los Angeles may order the County of Los Angeles Auditor to retain in a segregated escrow account for the benefit of the New Valley City any funds on hand due the New Valley City pending resolution of the default. If the escrowed amounts are sufficient to cover the costs of payments due, the City of Los Angeles shall continue to provide all services due hereunder, pending cure or resolution of the default by judicial order or other means. All other remedies at law or in equity, which are not inconsistent with the provisions of this Agreement, are available to the New Valley City and City of Los Angeles to pursue in the event of default. (3/14/02)
Institution of legal action		In addition to any other rights or remedies, the New Valley City or the City of Los Angeles may institute a legal action to cure, correct, or remedy any default or breach, to specifically enforce any covenants or agreements set forth in this Agreement, or to enjoin any threatened or attempted violation of the Agreement, or to obtain any remedies consistent with the purpose of this Agreement. Legal actions shall be instituted in the Superior Court of the County of Los Angeles, State of California. (3/14/02)
AMENDMENTS		
Mutual Agreement		This Agreement may be modified by written agreement of the New Valley City and the City of Los Angeles.(3/14/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
		The parties acknowledge that circumstances may arise which may call for or require mutual good faith negotiations for the amendment of this Agreement. Without limitation due to enumeration, the parties agree to meet and confer regarding the possible mutual amendment of this Agreement within 30 days of the written notice by one party to the other party of the occurrence of one or more of the following: (3/14/02) The passage of a statute or issuance of a legislative or executive order from a federal, state or local governmental entity that materially alters the manner in which revenues to the New Valley City or City of Los Angeles are paid or allocated, including without limitation refund by the State of California of Education Reform Act Fund ("ERAF") monies or other monies provided as compensation for ERAF deductions. Unanticipated loss of revenue to the New Valley City by circumstances outside the New Valley City's jurisdictional control, other than statute or legislative or executive Order, that materially alters the New Valley City's anticipated revenue or materially increases services costs over those anticipated in this Agreement or in the CFA. Natural disasters that materially destroy New Valley City or City of Los Angeles infrastructure to the extent that the City of Los Angeles's ability to provide services or the New Valley City's ability to make payments would be materially impaired. (3/14/02)

Terms Proposed by the City of Los Angeles and the Applicant

As of April 3, 2002

Term	City of Los Angeles Proposal	Applicant Proposal
Negotiation of Amendment		The discovery by the New Valley City or the City of Los Angeles of any error or omission in the data utilized for development of the CFA and this Agreement that materially affects the basis for the amount of payments due hereunder, or the projection of future revenues and /or costs on which the payment schedule was based. Such errors are limited to base assumptions and inputs provided by the City of Los Angeles and specifically exclude challenges to forecasting methods and assumptions used by LAFCO and its consultant in preparing the CFA. Upon receipt of such written notice, the parties shall, within 30 days, hold at least one meeting to negotiate in good faith a mutual amendment of this Agreement. However, nothing contained herein shall require the mutual amendment of this Agreement or authorize the unilateral amendment hereof. (3/14/02)
MISCELLANEOUS PROVISIONS		
Rules of Construction		The Rules of Construction can be seen in the Revenue Neutrality Agreement By and Between The City of Los Angeles and the Applicants, drafted 3/14/02.

Terms & Conditions in Incorporations Subject to Revenue Neutrality

City	Goleta	Aliso Viejo	Elk Grove	Rancho Santa Margarita	Laguna Woods	Citrus Heights
County	Santa Barbara	Orange	Sacramento	Orange	Orange	Sacramento
Type	Incorporation with detachment from street lighting and library CSA	Incorporation with dissolution of park CSA	Incorporation	Incorporation	Incorporation with detachment from county park CSA	Incorporation
Environmental	Negative declaration	Negative declaration	Mitigation measures included in terms and conditions.	Negative declaration	Negative declaration	Statement of over-riding consideration; mitigation measures included in terms and conditions.
Election Date	November 6, 2001	March 6, 2001	March 7, 2000	November 2, 1999	March 2, 1999	November 5, 1996
Effective Date	February 1, 2002	July 1, 2001	July 1, 2000	January 1, 2000	March 24, 1999	January 1, 1997
Transition Service						
Length of Period	<i>Remainder of first fiscal year</i>	<i>Remainder of first fiscal year</i>	Remainder of first fiscal year	<i>Remainder of first fiscal year, with an additional year for law enforcement services.</i>	Remainder of first fiscal year	Remainder of first fiscal year
Payment Amount	<i>Up to \$4 million in costs waived</i>	<i>Specific amount</i>	Net cost of service	<i>Most costs waived</i>	Negotiated amount pursuant to 57384(b)	Resolution: Net cost Settlement: \$4.5 million for remainder of first fiscal year.
Reimbursement	<i>Reimbursement for transition year costs waived up to maximum of \$2.5 million for general costs and \$1.5 million for road expenditures. \$1.5 million interest-free loan for transition year to be repaid in 11th year.</i>	<i>Payment over 7-year period through sales tax increment over baseline or, if inadequate, direct payment.</i>	Payment made directly from property taxes and first quarter sales tax retained by county, with city owing any additional net cost to be repaid over a 5-year period with interest.	<i>County waived reimbursement for transition year service costs except road maintenance. Road maintenance reimbursement at end of first fiscal year.</i>		Resolution: Reimbursement over a 5-year period in quarterly installments, with interest. Settlement: Reimbursement in quarterly installments beginning 2 years after incorporation.
Start-Up Loan	<i>\$100,000 start-up loan to be repaid during transition year with interest</i>					
Contractual coverage	<i>Transition period extension or service extension by mutually agreed contract for five-year term</i>		Elk Grove should consider contracting with the county for animal control, building inspection, street lighting, road maintenance services. City County Library JPA will provide library service.			Citrus Heights should consider contracting with the county for animal control, building inspection, street lighting, road maintenance services.
Escape clause	<i>by agreement of parties</i>		New city may discontinue services prior to end of first fiscal year. Solid waste collection service may not end until termination of county agreements with private service providers.		City Council may discontinue	
Service levels	<i>at or above the current level of service</i>	<i>at current levels of service at no additional cost to City, and/or enhanced levels of service on terms mutually agreed</i>	at current levels of service	<i>law enforcement at current service levels</i>		at current levels of service
Mitigation payment						
Term	<i>10 years / Perpetuity</i>	<i>7 years</i>	<i>25 years</i>	<i>9 years</i>	<i>14 years</i>	<i>25.5 years</i>

Italicized text indicates items included in written agreement between the parties.

California Incorporation Terms

Terms & Conditions in Incorporations Subject to Revenue Neutrality

City	Goleta	Aliso Viejo	Elk Grove	Rancho Santa Margarita	Laguna Woods	Citrus Heights
Agreement form	Separate Revenue Neutrality Agreement	Separate Revenue Neutrality Agreement	Separate Revenue Neutrality Agreement	Separate Revenue Neutrality Agreement	Separate Revenue Neutrality Agreement	Terms and conditions; settlement agreement following litigation
Limited	<i>Time-limited agreement for 40% of TOT, 50% of sales tax allocated to county for transition year and mitigation period. Ongoing agreement for 50% of property tax and 30% of sales tax to be allocated to county.</i>	<i>\$1.2 million annually for mitigation period, with incentives structured for new city to annex adjacent areas.</i>	<i>Quarterly remittance of transient occupancy tax revenues, in addition to a declining share of property tax revenues. Property tax revenue share remitted to county starts at 90%, is reduced slightly through the first 18 years of the term and then phased out at the rate of 10% annually.</i>	<i>Lump sum of \$12 million to be repaid from general revenues in first 2 years, and thereafter from a combination of general revenues and sales tax increments.</i>	<i>Annual county deficit with 3% annual inflation adjustment to be paid in seven annual installments, with discount for early payment.</i>	<i>Resolution: \$5.6 million annually in quarterly installments with inflation adjustment. Settlement: all property taxes (approx. \$2.2 million annually)</i>
Default provisions	<i>In the event of default by the new city, the County Auditor may set up an escrow account to divert city property taxes to the county.</i>	<i>Resolution requires parties to effect a direct transfer from the Board of Equalization or the County Auditor. Prior to that, City Council appropriation required on annual basis. In the event of default by the new city, the County Auditor may set up an escrow account to divert city property taxes to the county.</i>	<i>If triggering factors occur, the tax sharing agreement may be reopened with dispute resolution procedures outlined by LAFCO.</i>	<i>Resolution requires parties to effect a direct transfer from the Board of Equalization or the County Auditor. Prior to that, City Council appropriation required on annual basis. In the event of default by the new city, the County Auditor may set up an escrow account to divert city property taxes to the county.</i>		
Assets						
Liquid assets	<i>County shall provide accounting for distribution of funds set aside for use in the area</i>		<i>County transfers impact fees intended for use in new city</i>	<i>Local park trust funds transfer.</i>		<i>County transfers impact fees intended for use in new city</i>
Local service-related	<i>All real property exc. Fire stations and flood control district property. Park property and equipment transfer.</i>	<i>Local parks, street lights, storm drainage facilities, roads transfer. Conditions explicitly state that sheriff and library facilities do not transfer.</i>		<i>Local parks, street lights, storm drainage facilities, roads transfer. All county-owned real property except a regional park transfers.</i>	<i>Local parks, street lights, stormdrains, roads and related easements transfer</i>	
Data and Records		<i>The parties shall expeditiously prepare and record evidence for real property transfers following incorporation.</i>				
Easements				<i>Transfer if related to an asset that transfers, as specified in Revenue Neutrality Agreement.</i>	<i>Transfer if related to an asset that transfers</i>	
Stormwater		<i>Local storm drain facilities transfer</i>		<i>Local storm drain facilities transfer</i>	<i>Local storm drain facilities transfer</i>	
Wastewater						

Italicized text indicates items included in written agreement between the parties.

California Incorporation Terms

Terms & Conditions in Incorporations Subject to Revenue Neutrality

City	Goleta	Aliso Viejo	Elk Grove	Rancho Santa Margarita	Laguna Woods	Citrus Heights
Redevelopment	<i>Redevelopment assets and liabilities transfer</i>					
Liabilities	<i>Redevelopment assets and liabilities transfer</i>	City assumes liabilities of county park CSA	County continues special tax levy for community facilities district consistent with bond covenants.		City must adopt any development fee programs for community facilities.	
Dispute Resolution	<i>Mutual agreement required to amend revenue neutrality agreement, or legal action.</i>	<i>Mutual agreement required to amend revenue neutrality agreement, or legal action filed in Superior Court.</i>	Mutual agreement or mediation required to amend revenue neutrality agreement, or legal action filed in Superior Court.	<i>Mutual agreement required to amend revenue neutrality agreement, or legal action filed in Superior Court.</i>	Applicant agrees to indemnify LAFCO for any action relating to its approval of the proposal	
Employee Protection						
Revenues						
Grants	<i>City shall participate in county's CDBG program through completion of current contracts.</i>					
Expenditures						
Reorganization election			Election costs borne by the City.			Costs for Council election borne by the city
Incorporation study costs		Map and legal description production costs covered by applicant or new city.		The new city shall reimburse LAFCO for unbudgeted costs for consultants and counsel incurred in incorporation process, as well as map and legal description production costs.	Applicant agrees to indemnify LAFCO for any action relating to its approval of the proposal	
Accounting	<i>County collects and distributes TOT at no charge to city.</i>	Property tax revenue administration costs to be shared by the city and the county.	<i>Property tax revenue administration costs to be shared by the city and the county.</i>			
Standard provisions						
Governance	City governed by five-member council elected at large.	Ballot includes question on future council representation by district or at large (57101)	Terms of office for City Council (57377-57379). Initial district boundaries to be adopted by the first City Council.	Terms of office for City Council (57377-57378)	Ballot includes question on future council representation by district or at large (57101)	Terms of office for City Council (57377-57379)
Appointive positions	City Manager, City Clerk and Treasurer appointive rather than elective	City Manager, City Attorney, City Clerk and Treasurer appointive rather than elective	City Manager, City Clerk and Treasurer appointive rather than elective	City Manager, City Attorney, City Clerk and Treasurer appointive rather than elective	City Manager, City Attorney, City Clerk and Treasurer appointive rather than elective	City Manager, City Clerk and Treasurer appointive rather than elective
Ordinances		Adopt applicable county ordinances	Adopt applicable county ordinances and general plan	Adopt applicable county ordinances	Adopt applicable county ordinances	Adopt applicable county ordinances and general plan

Italicized text indicates items included in written agreement between the parties.

California Incorporation Terms

San Fernando Valley Fiscal Viability Computations
CFA Estimates & Executive Officer Updates
(Amounts in thousands of FY 2000-01 dollars)

	Executive Officer (1)							
	Scenario A-Immediate Cost Cuts				Scenario B-Cost Cuts Post-Transition			
	FY02-03	FY03-04	FY04-05	FY05-06	FY02-03	FY03-04	FY04-05	FY05-06
San Fernando Valley Projected Revenues	534,442	1,068,885	1,068,885	1,068,885	534,442	1,068,885	1,068,885	1,068,885
Total Current Budgeted Resources (4)	539,977	1,079,953	1,079,953	1,079,953	529,191	1,058,382	1,058,382	1,142,493
General Fund	448,236	896,472	896,472	896,472	448,236	896,472	896,472	896,472
Special Funds	80,955	161,909	161,909	161,909	80,955	161,909	161,909	161,909
Special Fund Balances	10,786	21,572	21,572	21,572	10,786	21,572	21,572	21,572
Net revenue increase	(5,534)	(11,068)	(11,068)	(11,068)	(5,534)	(11,068)	(11,068)	(11,068)
Net documentary transfer tax revenue loss	(15,418)	(30,836)	(30,836)	(30,836)	(15,418)	(30,836)	(30,836)	(30,836)
Motor vehicle license fee revenue gains	7,994	15,988	15,988	15,988	7,994	15,988	15,988	15,988
Gas tax revenue gains	1,890	3,780	3,780	3,780	1,890	3,780	3,780	3,780
San Fernando Valley Expenditures	535,875	1,067,078	1,064,287	1,061,496	544,875	1,085,078	1,057,287	1,054,496
Payments to City of Los Angeles	533,353	1,062,235	1,059,444	1,056,653	542,353	1,080,235	1,052,444	1,049,653
Purchased Services	512,066	1,024,133	1,024,133	1,024,133	512,066	1,024,133	1,024,133	1,024,133
Less General Overhead Costs								
Less Budget Adjustments	(9,000)	(18,000)	(18,000)	(18,000)			(25,000)	(25,000)
Administrative Costs	1,536	3,072	3,072	3,072	1,536	3,072	3,072	3,072
Transition Costs	840				840			
Redistricting & Accounting	567				567			
Election Costs	274				274			
Fiscal Mitigation Payment	27,910	53,030	50,238	47,447	27,910	53,030	50,238	47,447
Valley City Personnel	1,690	3,674	3,674	3,674	1,690	3,674	3,674	3,674
Valley City Non-Departmental Costs	706	919	919	919	706	919	919	919
Valley City Fiscal Agent	125	250	250	250	125	250	250	250
Liquid Assets								
Reserve Fund Balance Transferred (5)	18,340				18,340			
Start-up Loan					12,000	18,000		
Loan Repayment							(14,051)	(14,051)
Surplus (Deficit)	(1,432)	1,807	4,598	7,389	1,568	1,807	(2,453)	338
Available Balance								
Beginning of year	18,340	\$ 16,908	18,715	23,313	18,340	\$ 19,908	21,715	19,262
As % of annualized general fund revenues	2.08%	1.92%	2.12%	2.64%	2.08%	2.26%	2.46%	2.18%
End of year	\$ 16,908	\$ 18,715	\$ 23,313	\$ 30,702	19,908	\$ 21,715	\$ 19,262	\$ 19,600
As % of annualized general fund revenues	1.92%	2.12%	2.64%	3.48%	2.26%	2.46%	2.18%	2.22%

San Fernando Valley Fiscal Viability Computations (continued)								
	Executive Officer (1) Scenario C-New Revenue Source				CFA (2)			
	FY02-03	FY03-04	FY04-05	FY05-06	FY02-03	FY03-04	FY04-05	FY05-06
San Fernando Valley Projected Revenues	545,892	1,091,785	1,091,785	1,091,785	\$ 637,169	\$ 1,274,337	\$ 1,274,337	\$ 1,274,337
Total Current Receipts (4)	539,977	1,079,953	1,079,953	1,079,953	532,075	1,064,150	1,064,150	1,064,150
General Fund	448,236	896,472	896,472	896,472	451,242	902,483	902,483	902,483
Special Funds	80,955	161,909	161,909	161,909	80,955	161,909	161,909	161,909
Special Fund Balance	10,786	21,572	21,572	21,572	10,786	21,572	21,572	21,572
Net revenue increase	5,916	11,832	11,832	11,832	6,677	13,353	13,353	13,353
Net documentary transfer tax reeduction	(15,418)	(30,836)	(30,836)	(30,836)				
Motor vehicle license fee revenue gains	7,994	15,988	15,988	15,988	5,400	10,800	10,800	10,800
Gas tax revenue gains	1,890	3,780	3,780	3,780	1,277	2,553	2,553	2,553
Impose electric franchise fee	11,450	22,900	22,900	22,900				
San Fernando Valley Expenditures	544,875	1,087,869	1,087,869	1,087,869	537,667	1,070,738	1,070,738	1,070,738
Payments to City of Los Angeles	542,353	1,083,026	1,083,026	1,083,026	535,270	1,066,145	1,066,145	1,066,145
Purchased Services	512,066	1,024,133	1,024,133	1,024,133	499,188	998,377	998,377	998,377
Administrative Costs	1,536	3,072	3,072	3,072	1,995	1,995	1,995	1,995
Transition Costs	840				1,200	-	-	-
Redistricting & Accounting	567				1,000	-	-	-
Election Costs	274				200	-	-	-
Fiscal Mitigation Payment	27,910	55,821	55,821	55,821	32,887	65,773	65,773	65,773
Valley City Personnel	1,690	3,674	3,674	3,674	1,690	3,674	3,674	3,674
Valley City Non-Departmental Costs	706	919	919	919	706	919	919	919
Valley City Fiscal Agent	125	250	250	250				
Liquid Assets								
Reserve Fund Balance Transferred (5)	18,340				-			
Surplus (Deficit)	1,018	3,916	3,916	3,916	\$ 99,502	\$ 203,599	\$ 203,599	\$ 203,599
Available Balance								
Beginning of year	18,340	19,358	23,274	27,190	-	\$ 99,502	303,101	506,700
As % of annualized general fund revenues	2.03%	2.14%	2.57%	3.01%	0.00%	10.89%	33.19%	55.48%
End of year	19,358	23,274	27,190	31,106	\$ 99,502	\$ 303,101	\$ 506,700	\$ 710,299
As % of annualized general fund revenues	2.14%	2.57%	3.01%	3.44%	21.79%	33.19%	55.48%	77.77%

Notes:

- (1) Executive Officer estimates based on territory recommended for special reorganization (excluding eastern Cahuenga).
- (2) Comprehensive Fiscal Analysis, January 9, 2002 estimates based on territory originally proposed for special reorganization.
- (3) CFA Supplement, February 21, 2002 estimates based on removal of entire Cahuenga Pass neighborhood.
- (4) Total current budgeted resources exclude general obligation bond related property taxes.
- (5) Transferred reserve fund balance is expected to be approximately \$32 million, including a share of the \$60 million emergency reserve fund as well as the \$45 million contingency reserve fund. The reserve fund allocations in this chart are conservative and assume that only the emergency fund balance will be available for apportionment.

San Fernando Valley Special Reorganization Fiscal Impact on remaining City of Los Angeles
CFA Estimates & Executive Officer Updates
(Amounts in thousands of FY 2000-01 dollars)

	CFA (1)				Executive Officer (2)			
	FY 2002-3	FY 2003-4	FY 2004-5	FY 2005-6	FY 2002-3	FY 2003-4	FY 2004-5	FY 2005-6
Total Budgeted Resources	1,722,805	3,246,209	3,246,209	3,246,209	1,610,226	3,217,662	3,214,871	3,212,080
General Fund	1,015,189	2,030,377	2,030,377	2,030,377	1,018,194	2,036,388	2,036,388	2,036,388
Special Fund	475,329	950,658	950,658	950,658	475,208	950,416	950,416	950,416
Special Fund Balances	199,400	199,400	199,400	199,400	88,914	177,828	177,828	177,828
Fiscal Mitigation Payment	32,887	65,773	65,773	65,773	27,910	53,030	50,238	47,447
Total Expenditures	1,623,104	3,246,209	3,246,209	3,246,209	1,610,226	3,220,453	3,220,453	3,220,453
Less Budget Adjustment						(16,102)	(16,102)	(16,102)
Net Fiscal Impact	99,700	-	-	-	-	13,311	10,520	7,729
Special Fund Balances								
Status Quo								
Amount	199,400	199,400	199,400	199,400	199,400	\$ 199,400	199,400	199,400
As % of Special Revenues	36%	18%	18%	18%	36%	18%	18%	18%
Special Reorganization								
Amount	199,400	199,400	199,400	199,400	177,828	177,828	177,828	177,828
As % of Special Revenues	42%	21%	21%	21%	37%	19%	19%	19%

Notes:

(1) Fiscal year 2000-01 adopted budget serves as basis for the CFA and the Executive Officer's calculations. The City budgeted on using its available fund balances in that budget, as well as spending down its reserve balance from \$78 million to \$42 million. The City ended up receiving more revenues than expected and added to its reserve fund by approximately \$130 million.

(2) Executive Officer calculations based on recommended terms and conditions.

San Fernando Valley Revenue Neutrality Computations

CFA Estimates & Executive Officer Updates

(Amounts in thousands of FY 2000-01 dollars. Percent is Valley share of City total.)

	CFA (1)		Executive Officer (2)	
	%	\$	%	\$
Total Budgeted Resources (3)	26.31%	\$	26.70%	\$ 1,079,953
General Fund Receipts	30.77%		30.57%	896,472
Net documentary transfer tax loss	40.01%		39.92%	(30,836)
Accruing to proposed city (4)				865,636
Special Fund Receipts	14.53%		14.56%	161,909
Special Fund Balances	0.00%		10.82%	21,572
Total Budgeted Expenditures (5)	23.52%		24.13%	1,024,133
Budgetary Departments	26.72%		27.12%	654,189
Other Departments	26.94%		26.89%	58,074
Non-Departmental Expenditures (6)	18.29%		19.30%	311,871
Revenue Neutrality Test (7)				24,984
Negative Fiscal Impact on City of Los Angeles (8)				55,821

Notes:

- (1) Comprehensive Fiscal Analysis, January 9, 2002 estimates based on territory originally proposed for special reorganization.
- (2) Executive Officer estimates based on territory recommended for special reorganization (excluding eastern Cahuenga).
- (3) Total receipts includes all available balances and all receipts except general obligation bond related property taxes.
- (4) Receipts accruing to proposed city exclude the documentary transfer tax levied by the City and include half the tax levied by the County.
- (5) Total budgeted expenditures exclude payment from general obligation bond related property taxes.
- (6) Non-departmental allocations expressed as a percentage of expenditures less bond redemption & interest, as the associated general obligation bond tax proceeds have also been excluded from revenue totals.
- (7) Revenue neutrality test is the difference between current revenues that would accrue to the new city (i.e. excluding the loss in the documentary transfer tax) and the expenditures that would transfer to the new city.
- (8) Negative fiscal impact on the City of Los Angeles is the result of the revenue neutrality test plus the loss in documentary transfer tax revenue.

San Fernando Valley Revenue Allocations
CFA Estimates & Executive Officer Updates

(Amounts in FY 2000-01 thousands of dollars)

	CFA (1)		Executive Officer (2,3)	
	%	\$	%	\$
Total Budgeted Resources (4)	26.31%	\$ 1,064,150	25.44%	\$ 1,079,953
Total Current Receipts	26.31%	\$ 1,064,150	26.16%	\$ 1,058,382
General Fund Revenues (5)	30.77%	902,483	30.57%	896,472
Property Tax (6)	36.56%	207,478	34.67%	196,763
Utility Users Tax	36.29%	182,762	36.10%	181,817
Licenses, Permits, Fees & Fines	22.91%	89,687	22.90%	89,655
Building & Safety	37.77%	25,503	37.69%	25,452
Fire	39.35%	17,453	39.32%	17,437
Enterprise Services	0.00%	-	0.00%	-
All Other	29.37%	46,731	29.39%	46,766
Business Tax	31.00%	99,721	30.79%	99,037
Sales Tax	45.70%	154,326	45.04%	152,097
State Motor Vehicle License Fees	35.88%	71,538	36.53%	72,842
Power Revenue Transfer	0.00%	-	0.00%	-
Transient Occupancy Tax	15.68%	16,248	15.68%	16,248
Municipal Court Fines	13.00%	11,531	12.97%	11,508
Documentary Transfer Tax	40.01%	35,209	39.92%	35,130
Parking Users Tax	8.43%	4,478	8.38%	4,448
Franchise Income	28.81%	12,869	28.73%	12,831
Interest	30.77%	7,393	30.57%	7,345
Water Revenue Transfer	0.00%	-	0.00%	-
Grant Receipts	26.88%	4,227	26.83%	4,218
Reserve Transfers	0.00%	-	30.57%	7,497
Special Fund Revenues	14.53%	161,667	14.56%	161,909
Sewer Construction and Maintenance Fund	0.00%	-	0.00%	-
Special Gas Tax Street Improvement Fund	35.88%	35,296	36.53%	35,940
Proposition A Local Transit Assistance Fund	36.62%	22,119	36.53%	22,067
San. Equipment Charge Special Revenue Fund	41.00%	19,557	40.86%	19,492
Proposition C Anti-Gridlock Transit Impr. Fund	36.62%	17,353	36.53%	17,312
Stormwater Pollution Abatement Fund	48.00%	14,491	47.93%	14,471
Convention Center Revenue Fund	0.00%	-	0.00%	-
Special Parking Revenue Fund	12.57%	3,045	12.25%	2,970
L. A. Conv. and Visitor's Bureau Trust Fund	0.00%	-	0.00%	-
Zoo Enterprise Trust Fund	0.00%	-	0.00%	-
Street Lighting Maintenance Assessment Fund	18.75%	8,409	18.67%	8,371
Community Development Trust Fund	25.00%	7,299	24.92%	7,275
Local Public Safety Fund	0.00%	-	0.00%	-
Traffic Safety Fund	36.62%	6,592	36.53%	6,576
Spec. Police Communications/911 System Tax	0.00%	-	0.00%	-
Special Fund Balances	0.00%	-	10.82%	21,572

Notes:

- (1) Comprehensive Fiscal Analysis, January 9, 2002 estimates based on territory originally proposed for special reorganization.
- (2) Executive Officer estimates based on territory recommended for special reorganization (excluding eastern Cahuenga).
- (3) Fiscal year actuals on budgetary accounting basis are scheduled to be released by the City in the Mayor's proposed budget in April 2002.
- (4) Total resources exclude general obligation bond related property taxes.
- (5) General fund receipts include reserve fund transfers.
- (6) CFA property tax allocation is based on Auditor-Controller fiscal year 1999-2000 analysis. Executive Officer property tax allocation is based on Auditor-Controller fiscal year 2000-2001 analysis. In both cases, the adjustments for Western Cahuenga Pass are based on property data provided by the County Assessor, as analyzed by Public Financial Management.

San Fernando Valley Expenditure Allocations
CFA Estimates & Executive Officer Updates
(Amounts in thousands of FY 2000-01 dollars)

	CFA (1)		Executive Officer (2,3)	
	%	\$	%	\$
Total Current Expenditures (4)	23.52%	\$ 998,377	24.13%	\$ 1,024,133
Budgetary Departments	26.72%	644,627	27.12%	654,189
Administrative and Research Services/CAO	26.48%	2,664	26.43%	2,659
Aging	7.29%	210	7.28%	210
Animal Services	35.85%	4,401	35.77%	4,392
Building & Safety	37.88%	20,439	37.81%	20,398
City Attorney	27.06%	18,982	27.00%	18,943
City Clerk	36.90%	5,404	36.83%	5,393
Commission for Children, Youth & Their Families	34.62%	579	34.55%	578
Commission on the Status of Women	35.00%	158	34.93%	158
Community Development	25.00%	4,663	24.95%	4,654
Controller	27.05%	3,086	26.99%	3,080
Council	36.56%	6,693	36.49%	6,679
Cultural Affairs	19.94%	2,310	19.90%	2,305
Department on Disability	26.47%	326	26.42%	326
Emergency Preparedness Department	34.09%	356	34.02%	356
Employee Relations Board	25.00%	85	24.95%	85
Environmental Affairs	36.49%	1,001	36.41%	999
Ethics Commission	25.00%	433	24.95%	432
Finance	36.12%	6,745	36.05%	6,732
Fire	31.91%	110,133	31.85%	109,911
General Services	24.12%	40,343	24.07%	40,262
Human Relations Commission	35.00%	382	34.93%	382
Information Technology Agency	26.88%	27,031	26.82%	26,977
Los Angeles Convention Center (5)	0.00%	-	16.76%	10,861
Los Angeles Housing Department	28.91%	7,115	28.85%	7,100
Mayor	36.49%	2,593	36.41%	2,588
Neighborhood Empowerment	0.00%	-	0.00%	-
Personnel	27.79%	11,566	27.74%	11,543
Planning	32.39%	6,113	32.33%	6,101
Police	27.54%	230,257	27.49%	229,793
Public Works				
Board of Public Works	23.71%	2,103	23.66%	2,099
Director of Public Works (6)	NA		NA	
Bureau of Accounting	21.43%	881	21.39%	879
Bureau of Contract Administration	27.42%	6,419	27.36%	6,406
Bureau of Engineering	20.77%	14,355	20.73%	14,326
Bureau of Management-Employee Services	22.92%	368	22.87%	367
Bureau of Sanitation	18.09%	32,610	18.06%	32,545
Bureau of Street Lighting	23.94%	3,695	23.90%	3,687
Bureau of Street Services	35.58%	46,562	35.50%	46,468
Transportation	22.72%	23,565	22.68%	23,517
Treasurer	0.00%	-	0.00%	-
Zoo	0.00%	-	0.00%	-

San Fernando Valley Expenditure Allocations
CFA Estimates & Executive Officer Updates
(Amounts in thousands of FY 2000-01 dollars)

	CFA (1)		Executive Officer (2,3)	
	%	\$	%	\$
Other Departments	26.94%		26.89%	58,074
Appropriations to El Pueblo de Los Angeles	0.00%		0.00%	-
Appropriations to Library Fund	29.28%		29.23%	14,781
Appropriations to Recreation and Parks Fund	26.61%		26.55%	25,031
Appropriations to City Employees' Retirement Fund	26.88%		26.83%	18,114
Appropriations to Fire & Police Pension Fund	29.73%		29.67%	148
Non-Departmental Expenditures (7)	18.29%		19.30%	311,871
Tax and Revenue Anticipation Notes (8)	29.73%		30.57%	43,204
Pension Tax and Revenue Anticipation Notes	29.73%		30.57%	43,204
Cash Flow Tax and Revenue Anticipation Notes				
Bond Redemption and Interest	0.00%		0.00%	-
Capital Finance Administration Fund	21.03%		29.05%	26,209
CIEP - Municipal Facilities	7.35%		7.33%	1,180
CIEP - Physical Plant	7.35%		7.33%	2,685
CIEP - Wastewater	0.00%		0.00%	-
General City Purposes	26.88%		26.83%	21,420
Human Resources Benefits	26.88%		28.04%	73,121
Workers compensation	26.88%		30.57%	26,272
Other	26.88%		26.83%	46,905
Judgment Obligation Bonds Debt Service Fund	26.88%		30.57%	10,840
Liability Claims	26.88%		30.57%	17,026
Proposition A Local Transit Assistance Fund	36.62%		36.53%	28,323
Prop. C Anti-Gridlock Transit Improvement Fund	36.62%		36.53%	8,397
Special Parking Revenue Fund	13.00%		12.25%	2,106
Unappropriated Balance	26.88%		26.83%	19,647
Wastewater Special Purpose Fund	0.00%		0.00%	-
Water and Electricity	26.88%		26.83%	8,349
Other Special Purpose Funds	20.41%		21.20%	49,365

Notes:

- (1) Comprehensive Fiscal Analysis, January 9, 2002 estimates based on territory originally proposed for special reorganization.
- (2) Executive Officer estimates based on territory recommended for special reorganization (excluding eastern Cahuenga).
- (3) All figures reconciled to the City's adopted 2000-01 budget. Fiscal year actuals on budgetary accounting basis are scheduled to be released by the City in the Mayor's proposed budget in April 2002.
- (4) Total expenditures exclude payment from General Obligation bond related property taxes.
- (5) Los Angeles Convention Center Executive Officer allocations are computed as the Valley's general fund contribution multiplied by the budgeted citywide general fund contribution to the department.
- (6) Department of Public Works Director is a new budgetary department in fiscal year 2001-02. The Bureaus of Accounting and Management-Employee Services were discontinued after fiscal year 2000-01.
- (7) Non-departmental allocations expressed as a percentage of expenditures less bond redemption & interest, as the associated general obligation bond tax proceeds have also been excluded from revenue totals.
- (8) Fiscal year 2000-01 budget TRAN proceeds are allocated to the Police & Fire Pension fund. For fiscal year 2001-02 only the interest expense for the cash flow TRAN is budgeted; budget excludes approximately \$200 million in principal.



C101695319